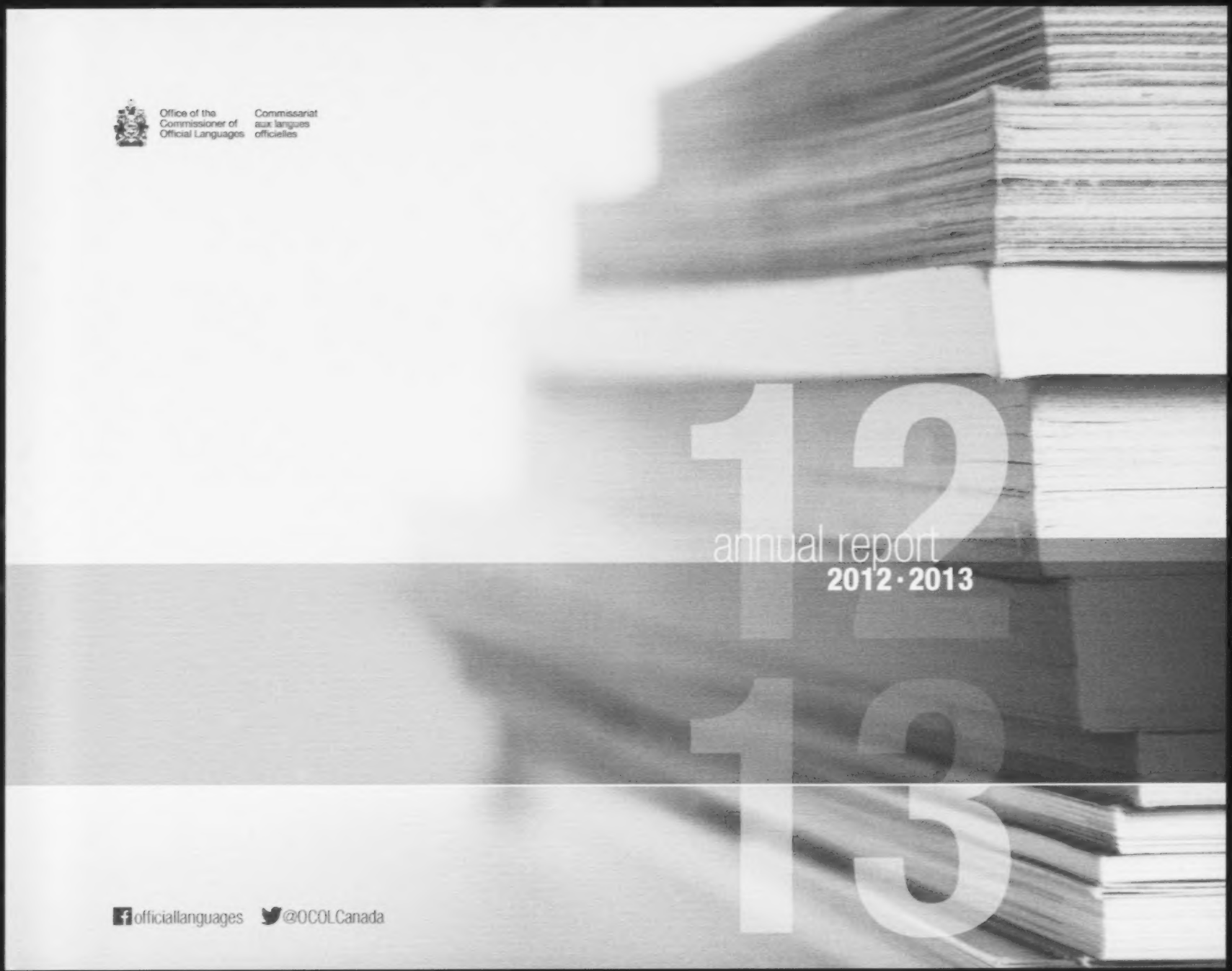
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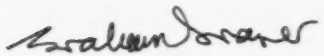
THE SPEAKER OF THE SENATE
Ottawa

Mr. Speaker,

Pursuant to section 66 of the *Official Languages Act*, I hereby submit to Parliament, through your good offices, the annual report of the Commissioner of Official Languages covering the period from April 1, 2012 to March 31, 2013. This report also discusses events related to official languages that took place during the Commissioner's first mandate, from October 2006 to October 2013.

Yours respectfully,



Graham Fraser

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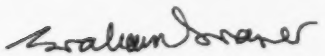


Graham Fraser

table of contents

PREFACE
BY GRAHAM FRASER I

AWARD OF EXCELLENCE
PROMOTION OF LINGUISTIC DUALITY V

INTRODUCTION 1

SECTION 1
CAN THE FEDERAL GOVERNMENT SERVE ME IN THE OFFICIAL LANGUAGE OF MY CHOICE? 3

1.1 Active offer: Still the weak link 4

1.2 Official languages in airports 5

1.3 Travellers' language rights 10

1.4 Third party services: Same language obligations 12

1.5 Air Canada before the courts 14

1.6 Substantive equality of Canada's official languages 16

1.7 Social media: the Act is a useful guide 18

1.8 Québec City marine rescue sub-centre: Impact of restructuring 20

1.9 Overview of observations: 2006–2013 21

1.10 Part IV complaints: 2006–2013 28

SECTION 2
AS A FEDERAL EMPLOYEE, DO I FEEL COMFORTABLE WORKING IN THE OFFICIAL LANGUAGE OF MY CHOICE? 29

2.1 Language of work: An individual right 30

2.2 Language training: Thinking outside the box 35

2.3 Linguistic designation of positions 37

2.4 Air Canada and language of work 40

2.5 Part V complaints: 2006–2013 42

SECTION 3

IS MY OFFICIAL LANGUAGE COMMUNITY GROWING AND THRIVING? 43

3.1 French-speaking minority communities and immigration: Future at stake 44

3.2 The Roadmap: A critical tool 46

3.3 Vitality studies for official language communities 49

3.4 Recognizing Quebec's English-speaking communities 51

3.5 Budget cut casualties 53

3.6 CBC/Radio-Canada's language obligations 56

3.7 Elimination of the mandatory long form census questionnaire: A disappointing step backwards 58

3.8 Access to justice in both official languages 60

3.9 Part VII complaints: 2006–2013 62

SECTION 4

IS LINGUISTIC DUALITY A FUNDAMENTAL VALUE IN CANADA? 65

4.1 Linguistic duality and cultural diversity are complementary, not contradictory 66

4.2 Towards a true continuum of second language learning 67

4.3 The Vancouver Games: Lessons learned 70

4.4 Appointing unilingual candidates to high-profile positions: Awkward at best 72

SECTION 5
ANALYSIS OF AUDITS AND COMPLAINTS: 2006–2013 73
5.1 Audits and audit follow-ups: 2006–2013 74
5.2 Overview of complaints: 2006–2013 75

SECTION 6
THE COMMISSIONER'S CHANGING ROLE 77
6.1 Intervening before the courts 78
6.2 Renewing the Commissioner's role as Canada's language ombudsman 81
6.3 Promoting linguistic duality through regional offices 84
6.4 Commissioner's activities: 2006–2013 87

CONCLUSION 91

RECOMMENDATIONS 95

GRAHAM FRASER
COMMISSIONER OF OFFICIAL LANGUAGES

Preface

The past seven years have been important ones for official languages in Canada. The *Action Plan for Official Languages*, which expired in 2008, was replaced by the *Roadmap for Linguistic Duality*, which expired in 2013. This, in turn, was recently replaced with the *Roadmap for Official Languages*, which runs through to 2018.

This has also been a period of financial instability: heavy federal investment in infrastructure in the wake of the financial crisis of 2008, followed by the Strategic and Operating Review and the Deficit Reduction Action Plan. Generally speaking, official languages have not been targeted, but there have been collateral damages and unintended consequences for official language minority communities from government reorganizations because of closures and cutbacks.

The result has been subtle erosion: the transfer of federal offices from bilingual regions to unilingual regions where there is no right for public servants to work in French, thereby making it harder to retain bilingual employees and offer services in both official languages; the quiet reduction of the level of language skill required for bilingual positions; the insidious pressure on public servants to produce documents in English; the regular failure to offer a sufficient number of training programs for public servants in French; the posting of senior, high-profile positions where mastery of both official languages is described as an asset rather than a requirement—or worse, described as a requirement and then not considered as such. The consequence of all this is a quiet, often imperceptible undermining of the use of both languages in the workplace, and of the ability to offer services in English and French.

Federal institutions have been adapting to the 2005 amendment to the *Official Languages Act*, which requires them to take positive measures for the growth and development of official language minority communities. Some institutions have responded with innovative approaches, while others have been slow to recognize their responsibilities.

It took court action and an out-of-court settlement to create the Language Rights Support Program after the abolition of the Court Challenges Program of Canada in 2006.

The decision by CBC/Radio-Canada to eliminate virtually all of the local programming at French-language radio station CBEF Windsor led to 876 complaints in 2009–2010. I asked the Federal Court to decide whether I have the jurisdiction to investigate complaints involving CBC/Radio-Canada and to clarify the public broadcaster's obligations under the *Official Languages Act*. The Court released a preliminary decision confirming my powers to investigate and the jurisdiction of the Court pursuant to the Act. Now that the Canadian Radio-television and Telecommunications Commission has rendered its decision regarding CBC/Radio-Canada's licence renewal application, I intend to return before the Federal Court to ask that it confirm its preliminary decision regarding jurisdiction and that it decide on all other issues of public importance raised in this matter.

The Vancouver 2010 Olympic and Paralympic Winter Games resulted in many successes for services in both official languages—and one regrettable failure: the cultural component of the Olympic Games' opening ceremony. In order to help organizers learn from the successes and failure of the Vancouver experience, my office developed a handbook for organizers of major sporting events.

It is one of the paradoxes of Canadian life that, despite the clear indications of progress and strength for both of Canada's official languages, there are persistent narratives of decline. Over the past seven years, the results of two censuses have been published, and each one showed growth in the number of Francophones in Quebec, first stabilization and then slight growth in the English-speaking community in Quebec, and growth in the French-speaking minority communities across Canada. And yet the theme of "le recul du français"—the retreat of French—continues to echo.

This is understandable in light of the constant expansion in the use of English as the language of business, international trade, scientific research and communication, and entertainment. This phenomenon represents significant challenges for policy makers. But the English-speaking minority in Quebec does not represent one of those challenges.

Since its election in September 2012, the Parti Québécois has been discussing changes to the *Charter of the French Language*. I have made it clear that I am concerned about the possible impact of those changes on the English community's institutions, and that I am uncomfortable with the use of statistics to determine the vitality of an official language minority community. This means using the size and weight of the majority to define the rights and services of the minority.

As André Laurendeau wrote in *The Conscription Crisis, 1942*, ". . . if strength of numbers alone regulates relationships between an ethnic majority and the minority, then life in common is impossible, and all that remains is to separate. The minority must quit the house that has become uninhabitable."[1]

One of the questions that I have often received is the most general and difficult one: how are we doing in terms of official bilingualism? The answer is often unsatisfying: it depends. This report attempts to explain that answer in some detail, but here is an indication.

Over the past five decades since the creation of the Royal Commission on Bilingualism and Biculturalism, the changes have been enormous. There are French-language schools and school boards across the country. Immersion education

1. "The Conscription Crisis, 1942," in *André Laurendeau: Witness for Quebec*, Essays selected and translated by Philip Stratford, Toronto, Macmillan of Canada, 1973, p. 57.

has been a great success. A majority of provincial premiers are bilingual. Over 90% of the federal positions that are designated bilingual are filled by people who meet the language qualifications for their job.

But there are still embarrassing lapses. Some institutions still have problems meeting their responsibilities. It is still difficult for travellers to be served in the official language of their choice across Canada. I still get hundreds of complaints every year. It is still not an automatic assumption that both official languages will be used equally in greeting and communicating with Canadians, or in federal workplaces.

What has become clear is the importance of leadership. When leaders take the question of language rights and responsibilities seriously, so do the institutions they lead. If they don't, the use of both official languages fades away.

In February 2013, Prime Minister Stephen Harper asked me to stay on as Commissioner of Official Languages for an additional three years. I was honoured to accept.

What lies ahead in the field of official languages? What challenges need to be addressed?

Naturally, there will be some areas of continuity. In the context of fiscal restraint and deficit reduction, federal institutions will need regular reminders that they still need to serve Canadians in the official language of their choice, manage employees who have the right to work in their preferred official language, and take positive measures for the growth and development of official language minority communities. The issue of access to justice in both official languages will continue to be important, as will the need for post-secondary institutions to recognize their responsibility to offer students second-language learning opportunities. As Canada welcomes immigrants from around the world, it will be even more important to ensure not only that they can have access to language training, but also that they understand the role that official languages play in Canada's identity.

My office and I will continue to modernize and improve the way we operate. Technology is changing the way we work and the way citizens communicate with us. Canadians have higher expectations that public institutions should be well managed, responsive and transparent, and we are working to meet those expectations. We will soon be moving offices and joining other agents of Parliament—Elections Canada, the Office of the Privacy Commissioner and the Office of the Information Commissioner—which will reinforce our independence and open up possibilities for collaborative service delivery.

Looking ahead, there are a number of events and anniversaries in which it will be very important to spotlight Canada's linguistic duality. My staff have worked closely with the organizers of the 2013 Canada Games in Sherbrooke and, along with my colleague François Boileau, Ontario's French Language Services Commissioner, have already been consulting with the organizers of the Toronto 2015 Pan/Parapan American Games, sharing the lessons that were learned during the Vancouver 2010 Olympic and Paralympic Winter Games.

The federal government has announced that there will be a series of national celebrations to mark significant anniversaries over the next three years, leading up to the 150th anniversary of Confederation in 2017. These will include the 100th anniversary of the creation of the Royal 22e Régiment, the 200th anniversary of Sir John A. Macdonald's birth, the centenary of the First World War and the Battle of Vimy Ridge, and the 70th anniversary of the end of the Second World War in 1945. The climax will be the opening of the Canadian Museum of History as part of the 2017 celebrations.

I have always thought that anniversaries offer an opportunity for public education—an opportunity that is particularly valuable for those who came to Canada as adults and did not study Canadian history in school. However, it is important that these events recognize that there are conflicting narratives in Canadian history, that events like the First World War stimulate different recollections, with memories of heroic sacrifice co-existing uneasily with stories of conscription, anti-French-Canadian insults and soldiers shooting on anti-conscription rioters in Québec City.

Indeed, the First World War had a divisive as well as a formative effect on the country. English-speaking and French-speaking Canadians experienced the war in very different ways. Similarly, the Second World War is remembered in Quebec as much for the conscription crisis of 1942—when 80% of Quebec voters voted not to release William Lyon Mackenzie King's government from its promise not to impose conscription, while 80% of voters in the rest of the country voted to do so—as for anything else.

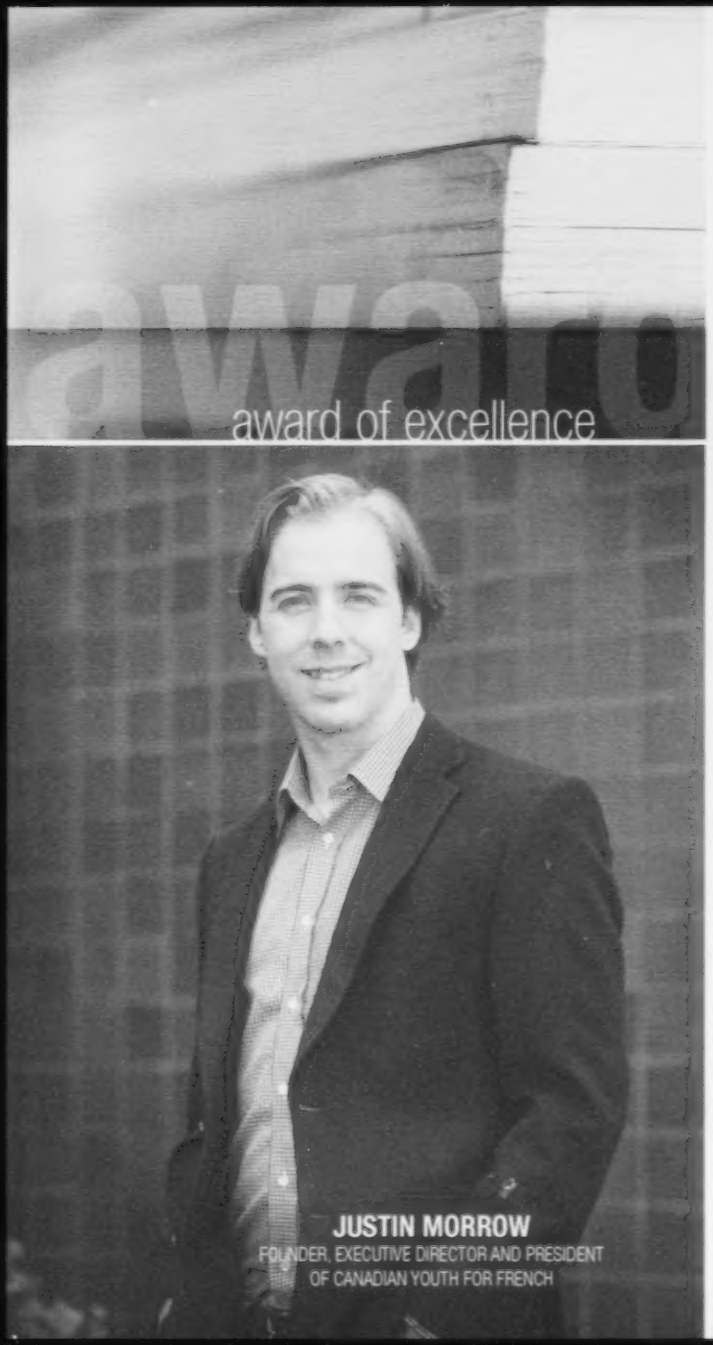
Thus, it is critical that these anniversaries become as much a time for reflection as for celebration, and for recognition that the events being remembered were often the source of bitter, divisive, even sometimes violent disagreement and debate at the time. Any attempt to treat them as moments of uncomplicated flag-waving unity will be unconstructive at best and, at worst, inflame ugly linguistic emotions.

All of this is in a context of a Parti Québécois government in Quebec that is concerned that French is threatened and needs greater protection. But the debate on the future of French, and the impact of that debate on the English-speaking minority in Quebec, means that it is all the more important that the federal government, and federal institutions, live up to the spirit as well as the letter of the *Official Languages Act*.

Just before the end of the 2012–2013 fiscal year, the federal government presented its *Roadmap for Canada's Official Languages 2013-2018*. That was a positive thing. However, there is no funding for research, no continuation of funding for the Canada School of Public Service's pilot project that offered language training and testing to university students so they could acquire their necessary language skills before joining the public service, and substantial reductions in funding for education. And while it is a good thing that significant funding is being dedicated to language training for immigrants, there is little indication that this will have a positive impact on official language minority communities.

Immigration is changing Canada, and it is also the key to the future of official language minority communities. In an era of major demographic change in the country, it is all the more important that the federal government promote Canada's linguistic duality as a value and as a central part of Canadian identity.

Fifty years after the launch of the Royal Commission on Bilingualism and Biculturalism, that remains a significant challenge for Canada.



Award of Excellence — Promotion of Linguistic Duality

Created in 2009 by the Commissioner of Official Languages, the Award of Excellence—Promotion of Linguistic Duality recognizes an individual or organization that is not subject to the *Official Languages Act* but that promotes linguistic duality in Canada or abroad or contributes to the development of Canada's official language minority communities.

This year's recipient of the Award of Excellence is young businessman Justin Morrow, founder, Executive Director and President of Canadian Youth for French. His organization's mission is to inspire a greater appreciation for French throughout Canada while increasing the number of bilingual Canadians.

Justin's career path has been unconventional, to say the least. Growing up in Shedden, a small village just outside of London, Ontario, Justin was an accomplished athlete in high school and wanted to continue playing football at university. After trying his luck in Vancouver, and then in Ottawa, he secured a spot on the team at Université Laval in Québec City. The only problem—the last time he had taken a French course had been in Grade 9! However, he embraced the challenge of training, studying and living in French.

Fiercely determined, Justin dove headfirst into his new language and new culture. Not only did he win the national university football championships twice with Laval's Rouge et Or, he also mastered French and received various academic honours.

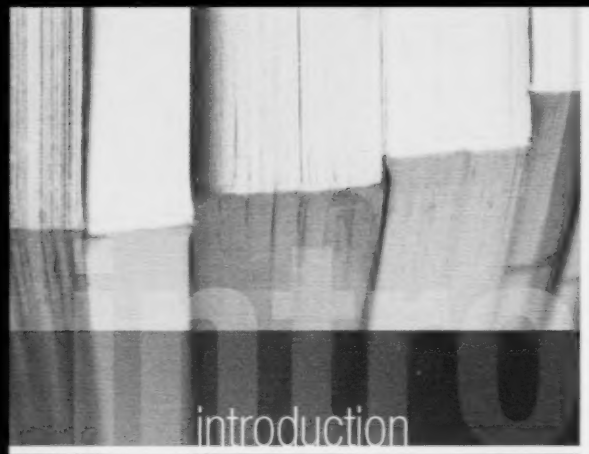
Justin's linguistic adventure did not end there. After graduation, Justin had one goal: to share his experience with English-speaking high school students across Canada. His idea was to show them all the opportunities that come with getting to know another language and another culture, and to spread the word that the benefits of being fluent in both official languages are available to everyone. Canadian Youth for French was born.

Justin has been meeting with Canadian universities, including the Université de Saint-Boniface and Université Laval, since 2009. His determination, energy and optimism have received a warm welcome across the country. His inspiration and his passion for a bilingual ideal are applauded throughout Canada.

After numerous national consultations, Canadian Youth for French is launching a Web portal to promote educational institutions that offer programs and courses in French. This unique platform—aimed at high school students and their teachers and guidance counsellors, as well as recent high school graduates—includes a directory of post-secondary experiences in French as a second language that are available across Canada.

The vision of Canadian Youth for French's Board of Directors is clear: to make Canada a country where the "majority" is not Anglophone or Francophone, but bilingual—a truly Canadian majority.

As Justin himself says, Canadian Youth for French is catching on: "It's not just a guy with a mission anymore, it's an organization with a mission!"



introduction

Introduction

The 2012–2013 annual report of Commissioner of Official Languages Graham Fraser describes his achievements during his first mandate, which ran from 2006 to 2013.[1] It also examines the progress of linguistic duality during a period that was marked by a severe financial crisis and the meteoric rise of social media.

The first four sections of the annual report look at four major issues:

- Is the federal government serving Canadians better in the official language of their choice?
- Do federal employees feel more comfortable working in the official language of their choice?
- Are official language communities[2] better able to develop, thrive and achieve their full potential?
- Are Canadians feeling more and more like they live in a country where linguistic duality is a fundamental value?

The report continues with an overview of the audits conducted by the Commissioner from 2006 to 2013 and the complaints filed with him over the same period, as well as how his role has changed during the past seven years.

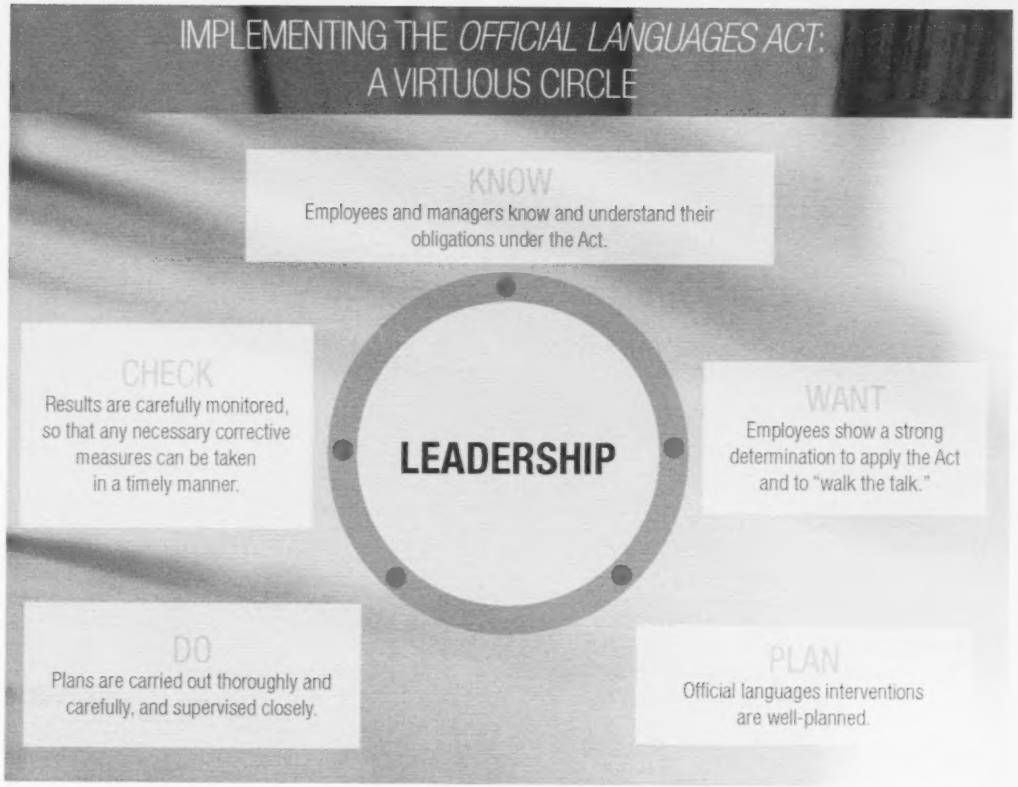
The report not only provides information to parliamentarians and the public about the progress Canada has made in terms of linguistic duality over the past seven years, it also gives a good sense of what still has to be done to ensure that English and French have truly equal status throughout the country.

1. In this report, "2006–2013" designates the seven-year period from the 2006–2007 fiscal year to the 2012–2013 fiscal year.
2. In this report, official language minority communities are designated by the term "official language communities."

In particular, the report stresses the fact that strengthening Canada's linguistic duality depends primarily on the Government of Canada's and each federal institution's[3] taking into account the different elements found in the virtuous circle of implementing the *Official Languages Act*. Each component of the circle is essential, but the most important is at the heart of the circle: leadership.

Without leadership, the Government of Canada and its federal institutions cannot be the driving force behind linguistic duality that we expect them to be, nor can they consolidate gains or make progress for the benefit of all Canadians.

Without leadership, the major changes that the federal public service is currently experiencing, such as job losses resulting from budget cuts, could do irreversible harm to achieving full equality for English and French in Canada, as guaranteed by the *Official Languages Act*.


IMPLEMENTING THE *OFFICIAL LANGUAGES ACT*: A VIRTUOUS CIRCLE
KNOW
Employees and managers know and understand their obligations under the Act.
WANT
Employees show a strong determination to apply the Act and to "walk the talk."
PLAN
Official languages interventions are well-planned.
DO
Plans are carried out thoroughly and carefully, and supervised closely.
CHECK
Results are carefully monitored, so that any necessary corrective measures can be taken in a timely manner.
LEADERSHIP

3. In this report, the term "federal institutions" is used to designate federal institutions and organizations that are subject to the *Official Languages Act*.

section 1

MODULE 1.1
ACTIVE OFFER: STILL THE WEAK LINK 4

MODULE 1.2
OFFICIAL LANGUAGES IN AIRPORTS 5

MODULE 1.3
TRAVELLERS' LANGUAGE RIGHTS 10

MODULE 1.4
THIRD PARTY SERVICES: SAME LANGUAGE OBLIGATIONS ... 12

MODULE 1.5
AIR CANADA BEFORE THE COURTS 14

MODULE 1.6
SUBSTANTIVE EQUALITY OF CANADA'S OFFICIAL LANGUAGES 16

MODULE 1.7
SOCIAL MEDIA: THE ACT IS A USEFUL GUIDE 18

MODULE 1.8
QUÉBEC CITY MARINE RESCUE SUB-CENTRE: IMPACT OF RESTRUCTURING 20

MODULE 1.9
OVERVIEW OF OBSERVATIONS: 2006–2013 21

MODULE 1.10
PART IV COMPLAINTS: 2006–2013 28

Can the federal government serve me in the official language of my choice?

It is high time all federal institutions understood that official languages are at the very heart of their dealings with citizens and travellers, whether by traditional means such as the telephone or more innovative ones such as social media. Inadequate service in English or in French is not and never will be quality service.

Under the *Official Languages Act*, federal institutions have a duty to make the in-person active offer of service, which means informing the public that service is available in both English and French. This lets Canadians and travellers know that they can be served in the official language of their choice and that they can feel comfortable using that language. Many institutions fail to comply with this obligation. With strong leadership, however, these institutions could encourage their employees to routinely use greetings like "Hello! Bonjour!"

The in-person active offer is, after all, a matter of leadership. So why, for example, does the average traveller's experience vary so much from airport to airport, and even within the same airport? Do airport authorities and the Canadian Air Transport Security Authority not play a major role in providing services in both official languages to the travelling public?

Federal institutions are required to offer their services actively in both official languages, but they cannot stop there. They must also ensure that these services are actually available in both official languages and that they are always of equal quality in English and French.

Federal institutions have a reputation for serving Canadians well, and they are making significant efforts to maintain this reputation in a difficult economic climate. However, only by fully complying with the Act can institutions truly respect the rights of citizens and travellers, and provide effective and efficient service.

1.1 Active offer: Still the weak link

ISSUE

Federal institutions that are required by the *Official Languages Act* to provide communications with and services to the public in both official languages have a duty to inform members of the public of their right to be served in English or French. Institutions must make a visual active offer of bilingual services—with an "English/Français" pictogram, for example—and a verbal active offer in person, with a bilingual greeting like "Hello! Bonjour!" However, this greeting is not always a part of federal institutions' client service culture.

COMMISSIONER'S ACTIONS

The Office of the Commissioner conducted anonymous observations at 63 federal institutions between 2006 and 2013. The results of these observations show that most of the institutions provided a good visual active offer of services in their designated bilingual offices. However, very few institutions obtained satisfactory results for the in-person active offer. Nine times out of ten, the federal institution that was evaluated received a score of less than 60%.

Federal institutions' poor performance in making the in-person active offer led the Commissioner to make specific recommendations on this issue in several audit reports. The Commissioner even made a recommendation in his 2009–2010 annual report, that institutions evaluate whether their new active-offer strategies are resulting in Canadians, being effectively informed of their language-of-service rights.

ASSESSMENT OF CURRENT SITUATION

Some federal institutions responded to the Commissioner's actions by taking measures to improve their active offer. A growing number of them, such as Service Canada and the Correctional Service of Canada, have conducted or are currently conducting their own observations on the active offer.

Community organizations are also interested in the issue of the active offer. For example, both the Fédération acadienne de la Nouvelle-Écosse and the Fédération des francophones de Terre-Neuve et du Labrador conducted investigations and published reports in 2012 on the quality of French services—including the active offer—at federal institutions.

The active offer is still one of the weak links, however, when it comes to official languages performance for federal institutions. They need to redouble their efforts to comply with the letter and spirit of the Act.

NEXT STEPS

When the active offer is not made in person, Canadians are generally reluctant to request service in the official language of their choice.

Some institutions have taken a step in the right direction and are measuring their performance using the virtuous circle for implementing the Act.[1] However, monitoring performance is only one part of the circle. The Commissioner expects institutions to take the lead and take action to ensure that the in-person active offer becomes a natural reflex.

PARKS CANADA LEADING THE WAY

Parks Canada has made a determined effort to make the active offer an integral part of how it does business. In 2009, Parks Canada produced an active-offer training kit called *Hello! Bonjour!*, which includes a DVD, a workbook and a CD. The kit was such a great success that the video was distributed to other departments, which still use it as a model. The Commissioner of Official Languages' most recent audit of Parks Canada in 2012 found that, when it comes to the active offer, this institution applies its best practices at all times and these practices produce the expected results. The active offer was systematically made at most of the Parks Canada sites that were audited.

1. For more information about the virtuous circle of implementing the *Official Languages Act*, please see page 2.

Official languages in airports 1.2

ISSUE

Under the *Official Languages Act* and its accompanying *Official Languages (Communications with and Services to the Public) Regulations*, the public has a right to receive services in English or French in Canadian airports that are designated as bilingual.[2]

OBSERVATIONS

In 2012, the Office of the Commissioner conducted 1,792 observations[3] in eight international airports in Canada to determine how well airport authorities and federal institutions were meeting their obligations under Part IV of the Act, which concerns communications with and services to the public. The list included the five airports (Halifax, Montréal, Ottawa, Toronto and Vancouver) in which the Office of the Commissioner had made observations in 2008. To provide a broader picture of airport performance across the country, three more airports—Québec City, Winnipeg and Edmonton—were added to the list in 2012.

The Office of the Commissioner observed services provided to the public by the following:

- airport authorities (including commercial tenants under their authority, such as restaurants and car rental agencies)
- Air Canada in-flight and ground services
- the Canadian Air Transport Security Authority (specifically, its third-party security screening contractors)

During the observations, institutions were evaluated on the following three criteria:

- Visual active offer – visual elements must indicate that service is available in English and French.
- In-person active offer – employees must use a bilingual greeting (such as "Hello! Bonjour!") to indicate that service is available in English and French.
- Availability of service – service must be available in the official language of the linguistic minority.

OVERALL RESULTS

Table 1 shows the mixed results obtained during the 2012 observations. While most institutions performed very well in terms of the visual active offer (except for the Toronto, Winnipeg and Edmonton airport authorities), there is still ample room for improvement in terms of the in-person active offer and, for some institutions, the availability of service in the language of the linguistic minority.

As found in the 2008 observations, few employees are in the habit of making the in-person active offer, even if they are bilingual. Managers need to make sure that front-line employees are aware of their duty to inform the public that services are available in both official languages. They must also ensure that these employees actively offer services in English and French.

Table 1 also shows that institutions able to provide services in both English and French all too often failed to make the in-person active offer of services in both official languages. Observers had to ask for service in the official language of the linguistic minority to learn that service in that language was, in fact, available.

2. Airports that serve more than one million passengers per year are required to provide services in both English and French.

3. The Office of the Commissioner consulted Statistics Canada to determine the number of observations required for a representative sample.

TABLE 1

SCORES FOR AIRPORT OBSERVATIONS IN 2012

INSTITUTION		Halifax – Robert L. Stanfield International Airport		Québec City – Jean Lesage International Airport		Montréal – Pierre Elliott Trudeau International Airport	
		Score (%)	Overall score* (%)	Score (%)	Overall score* (%)	Score (%)	Overall score* (%)
Airport authorities and commercial tenants under their authority	Visual active offer	84	27	100	85	94	88
	In-person active offer	0		26		51	
	Service available	17		99		98	
Canadian Air Transport Security Authority	Visual active offer	100	59	100	91	100	95
	In-person active offer	45		68		75	
	Service available	50		95		100	
Air Canada	Visual active offer	100	75	100	87	97	90
	In-person active offer	12		33		55	
	Service available	87		100		100	

* Overall score is the combined weighted score of the three criteria: Visual active offer and in-p
score (40% in total), and availability of service in the official language of the linguistic minority

AIRPORT										
ntréal – re Elliott udeau rnational Airport		Ottawa – Macdonald-Cartier International Airport		Toronto – Lester B. Pearson International Airport		Winnipeg – James Armstrong Richardson International Airport		Edmonton International Airport		Vancouver International Airport	
Overall score* (%)	Score (%)	Overall score* (%)	Score (%)	Overall score* (%)	Score (%)	Overall score* (%)	Score (%)	Overall score* (%)	Score (%)	Overall score* (%)	
	98		54		51		49		83		
88	5	47	1	25	0	21	0	24	8	25	
	44		24		18		23		12		
	100		100		100		100		100		
95	69	79	36	46	76	72	76	64	46	48	
	76		32		62		48		31		
	100		100		100		98		98		
90	48	89	12	71	12	72	17	75	22	73	
	99		81		83		86		81		

ffer and in person active offer each count for 20% of the overall
istic minority counts for the remaining 60%.

COMPARISON OF RESULTS FROM 2008 AND 2012

Overall, Air Canada and the Canadian Air Transport Security Authority have improved their performance since the 2008 observations, whereas airport authorities have not shown any significant improvements. In fact, the Halifax, Toronto and Vancouver airport authorities received lower scores than in 2008 (Table 2).

In both 2008 and 2012, the federal institutions at the Montréal airport, where French is the majority official language, were the only ones to receive scores consistently higher than 80% for services in the official language of the linguistic minority.

Although there has been some improvement since 2008, all of these institutions, especially those outside Quebec, need to make a more systematic effort to provide a better overall experience in the official language of the linguistic minority.

AIRPORT AUTHORITIES

Table 1 shows that almost two thirds of the airport authorities obtained very high scores for visual active offer, which means that they take this requirement seriously. However, the Toronto, Winnipeg and Edmonton airport authorities still need to improve their efforts in this area.

The results for in-person active offer were the exact opposite. Scores were very low across the board. The only double-digit scores went to the airport authorities in Montréal (51%) and Québec City (26%). Half of the airport authorities scored 0% or 1% for in-person active offer.

In 2012, two airport authorities received almost perfect scores for availability of service in the official language of the linguistic minority: Montréal (98%) and Québec City (99%). The rest scored under 45%.

As a point of interest, regardless of whether scores were high or low, no significant differences were observed before and after the security screening area in terms of availability of services in both official languages to travellers.

TABLE 2

OVERALL SCORES* FROM AIRPORT OBSERVATIONS IN 2008 AND 2012†

INSTITUTION		AIRPORT				
		Halifax – Robert L. Stanfield International Airport (%)	Montréal – Pierre Elliott Trudeau International Airport (%)	Ottawa – Macdonald Cartier International Airport (%)	Toronto – Lester B. Pearson International Airport (%)	Vancouver International Airport (%)
AIRPORT AUTHORITY	2008	34	87	46	33	28
	2012	27	88	47	25	25
CANADIAN AIR TRANSPORT SECURITY AUTHORITY	2008	36	86	51	25	29
	2012	59	95	79	46	48
AIR CANADA	2008	56	89	71	59	34
	2012	75	90	89	71	73

* Overall score is the combined weighted score of the three criteria. Visual active offer and in-person active offer each count for 20% of the overall score (40% in total), and availability of service in the official language of the linguistic minority counts for the remaining 60%.

† These scores reflect federal institutions' performance during the observation periods in 2008 and 2012. They do not show each institution's progress over time at each airport.

CANADIAN AIR TRANSPORT SECURITY AUTHORITY

The Canadian Air Transport Security Authority has significantly improved its performance since 2008. In 2012, it received perfect scores for visual active offer at all of the airports where observations were made. However, it needs to do better in terms of in-person active offer and availability of service in the official language of the linguistic minority.

In five of the eight airports observed, the screening officers hired by the Canadian Air Transport Security Authority's third-party contractors made the active offer of service in both official languages at least 68% of the time. In four out of eight airports, these screening officers were able to provide service in the official language of the linguistic minority at least 62% of the time. The screening officers in Montréal and Québec City received excellent scores for availability of service in the official language of the linguistic minority (100% and 95%, respectively). However, their performance was not as strong in terms of the in-person active offer.

AIR CANADA

Air Canada has also improved its performance since 2008. In 2012, the visual active offer was present 100% of the time in five airports. In the other three airports, Air Canada received close to perfect scores for visual active offer.

The national carrier also scored high marks for availability of service in the official language of the linguistic minority. In all eight airports, Air Canada's results ranged from perfect in the Québec City (100%) and Montréal (100%) airports to very good in the Edmonton (81%) and Toronto (81%) airports.

The in-person active offer is an area where Air Canada needs to improve its performance.[4] Even in Montréal, the in-person active offer was made only 55% of the time. In five of the other airports observed, it was made less than 25% of the time. When comparing Air Canada's scores in the air and on the ground, the carrier's in-flight service (44%) fared better than its ground service (17%).

Air Canada has bilingual staff available around the clock, but if the in-person active offer is not being made systematically, how will the public know that services are always available in English and French? And how will travellers know that they can feel comfortable speaking in the official language of their choice?

ASSESSMENT OF THE CURRENT SITUATION

Looking at the average traveller's overall experience of services received from federal institutions in the eight airports observed in 2012, the airports in Montréal and Québec City provide better service in the official language of the linguistic minority than the others. The Ottawa airport ranks third. In the other five airports, travellers requiring services in French are likely to have a mediocre experience at best.

The situation regarding the in-person active offer is particularly unacceptable. Most points of service obtained an average or low score in this area, and some, such as those under the responsibility of the airport authorities in Halifax, Ottawa, Toronto, Winnipeg, Edmonton and Vancouver, obtained extremely poor scores ranging from 0% to 8%.

TABLE 3

SCORES FOR OBSERVATIONS AT AIR CANADA SERVICE POINTS IN 2012

	GROUND SERVICE (%)	IN-FLIGHT SERVICE (%)
VISUAL ACTIVE OFFER	99	100
IN-PERSON ACTIVE OFFER	17	44
SERVICE AVAILABLE	85	97

4. The in-person active offer is one of the many issues the Commissioner addressed in his audit of service delivery to Air Canada passengers (see module 1.3, page 10).

This situation needs to be addressed immediately. If federal institutions do not comply with section 28 (Part IV) of the Act—in other words, if the in-person active offer is not made—then many travellers will not know that services are available, or that they are required to be available, in English and French. Consequently, travellers who speak the official language of the linguistic minority will probably not be served in the official language of their choice.

NEXT STEPS

The Commissioner is organizing an information campaign to let travellers know that they have language rights and that federal institutions are required to respect those rights.

To ensure that the language rights of the travelling public are respected under Part IV of the Act, federal institutions need to pay more attention to their duty to inform the public that services are available in both official languages. In Canadian airports that are designated as bilingual, the Canadian Air Transport Security Authority, Air Canada and the airport authorities must actively offer services in English and French, not only visually but also in person.

During the Vancouver 2010 Olympic Winter Games, when the entire world was watching, some of the federal institutions serving the travelling public showed that they could raise their game and fulfill all of their language obligations. They proved that complying with all of the sections in the Act really is possible. It is just a question of demonstrating leadership all the time instead of just once in a while for special occasions.

1.3 Travellers' language rights

ISSUE

Under the *Official Languages Act*, federal institutions are required to provide services in English and French to the travelling public. However, many institutions that provide these services are struggling to meet all of their obligations under the Act. Ground services, which include services at airports and border crossings, have been the object of 20% of Part IV (communications with and services to the public) complaints received by the Commissioner since 2006.

COMMISSIONER'S ACTIONS

From 2006 to 2013, the Commissioner undertook a variety of actions to help remedy this situation.

In 2007–2008, the Commissioner conducted an audit on the management of the official languages program at the Halifax International Airport Authority for the delivery of communications with and services to the travelling public. In his audit report, the Commissioner made nine recommendations, including strengthening the airport authority's accountability framework and official languages action plan; developing an official languages policy and communication strategy; and reviewing the language designation of positions.

In December 2012, he initiated a follow-up audit to examine and report on the measures taken by the Halifax International Airport Authority to implement these recommendations. The Commissioner was encouraged by the airport authority's efforts to implement some of the recommendations he made in the follow-up report. However, it is clear that much remains to be done to implement the Commissioner's recommendations to improve the way in which the airport authority manages its official languages program. The Commissioner has asked the Halifax International Airport Authority for an action plan that includes timelines for implementing his recommendations.

In his 2011 audit report on the service delivery in English and French to Air Canada passengers, the Commissioner recommended that the national carrier "take concrete and effective measures to raise awareness among managers, service directors, flight attendants, lead agents, and customer sales and service agents of the company's responsibilities pertaining to the active offer and delivery of bilingual services under Part IV of the *Official Languages Act*."[5]

In response to the recommendation, Air Canada submitted an action plan in which it committed to using all available media to effectively communicate employee responsibilities with regard to official languages. It also committed to reviewing and updating the language requirements for employees of Air Canada and other affiliates.

In the spring of 2013, the Commissioner initiated the follow-up audit to assess Air Canada's progress in implementing its action plan.

Between 2006 and 2013, the Commissioner investigated 156 complaints against the Canada Border Services Agency, which was the third highest number of admissible Part IV complaints received during that time.

In 2012, the Commissioner investigated a number of complaints from travellers returning to Canada through points of entry in southern Ontario.

5. Office of the Commissioner of Official Languages, *Audit of Service Delivery in English and French to Air Canada Passengers*, Ottawa, 2011, p. 7. On-line version (www.officiallanguages.gc.ca/html/audit_verification_092011_p9_e.php) accessed March 31, 2013.

The complainants reported that Canada Border Services Agency employees had not made the verbal active offer of bilingual service and, even when it was made clear that service in French was needed, had failed to provide it.

The Commissioner met twice with the Canada Border Services Agency's Executive Committee, and his office organized meetings with local managers and border service officers in Ontario.

Between 2006 and 2013, the Canadian Air Transport Security Authority generated 116 admissible complaints, ranking it fifth highest in Part IV complaints over that period.

In the past two years, the Commissioner has launched formal investigations into three complaints against the Canadian Air Transport Security Authority. In these cases, the complainants claimed that the federal institution's third-party security screening officers delivering services on its behalf had not addressed them in French, had been unable to speak French to them or had not sought the help of a French-speaking colleague.

According to the Office of the Commissioner's airport observations in 2008 and 2012, the Canadian Air Transport Security Authority has improved its overall performance with regard to service to the public.[6] However, despite this general improvement, the institution continues to have trouble ensuring that its third-party screening officers actively offer their services in both official languages and routinely serve travellers in the official language of their choice. The institution's operating procedures for third-party contractors do not clearly stipulate that their screening officers must make the active offer in person and provide bilingual services at all stages of the screening process. The Commissioner believes that the Canadian Air Transport Security Authority needs to be more thorough in monitoring its contractors and the level at which their screening officers comply with its obligations under the Act.

ASSESSMENT OF THE CURRENT SITUATION

As these examples show, federal institutions are making efforts to respect the rights that Part IV of the Act gives to the travelling public. However, they need to do much more to ensure that they systematically offer ground services of equal quality in English and French.

NEXT STEPS

One of the ways federal institutions that serve the travelling public can increase their level of compliance with Part IV of the Act is by applying all the elements of the virtuous circle of implementing the Act.[7]

The Commissioner has taken steps to help federal institutions fulfill their Part IV duties with regard to the travelling public. In the case of the Halifax International Airport Authority, the Commissioner's follow-up audit asks the institution to provide an action plan that includes timelines for implementing his recommendations. An information campaign is being conducted to inform travellers that they have language rights and that federal institutions are required to respect those rights.

6. For more information about the Office of the Commissioner's observations of the Canadian Air Transport Security Authority, please see module 1.2, page 5.
7. For more information about the virtuous circle of implementing the *Official Languages Act*, please see page 2.

1.4 Third party services: Same language obligations

ISSUE

In the past 15 years, the federal government has made some significant changes to the way it delivers services to the public. As a result, there is a greater reliance on third parties, whether through subcontracting, devolution, partnerships or privatization. For instance, Canada Post authorizes dealers in private postal outlets to act on its behalf, the Canadian Air Transport Security Authority contracts out its airport screening services to private security companies, and Air Canada supplements its network with contract carriers such as Jazz.

In Part IV of the *Official Languages Act*, which concerns communications with and services to the public, section 25 stipulates that every federal institution must ensure that third parties acting on its behalf comply with the same language obligations as the institution itself has under Part IV of the Act. However, some federal institutions do not consistently meet this obligation.

COMMISSIONER'S ACTIONS

The Commissioner's efforts over the past seven years have revealed two major obstacles that hinder full compliance with section 25 of the Act. First, third party employees acting on behalf of federal institutions are often not fluent enough in English or French. Second, even though federal institutions are generally in the habit of including language clauses in their third-party agreements, they do not systematically take the necessary measures to ensure strict compliance.

The Commissioner's 2010 report on the audit of the management of the official languages program at the Halifax International Airport Authority provides some guidance for institutions regarding third parties. In the audit report, the Commissioner recommends putting innovative measures in place to encourage third parties to meet their official languages obligations. In addition, he advocates using formal mechanisms to monitor third-party compliance with the Act.

An investigation completed by the Commissioner in 2013 shows the importance of implementing formal monitoring mechanisms. One of the objectives of the investigation was to determine whether Human Resources and Skills Development Canada had met its obligations under Part IV (specifically, section 25) of the Act when implementing the Canada–British Columbia Labour Market Development Agreement.

In his report, the Commissioner established that the Government of British Columbia was acting on behalf of Human Resources and Skills Development Canada in implementing employment services stemming from the Agreement. The Department was therefore ultimately responsible for ensuring that the employment services offered through the province respected the principle of the substantive equality[8] of English and French.

The Commissioner then determined that the new service delivery mode set up by the province did not provide the public with employment assistance services of equal quality in English and in French. He therefore concluded that Human Resources and Skills Development Canada had not fulfilled its obligations under section 25 of the Act, and specifically recommended that the Department set up permanent and formal follow-up and monitoring mechanisms to ensure that the Government of British Columbia complies with the language clauses in the Agreement.

8. For more information on substantive equality, please see module 1.6, page 16.

ASSESSMENT OF THE CURRENT SITUATION

In the current economic climate, federal institutions are increasingly tempted to adopt operating-cost reduction strategies by relying on third parties. This passive approach on the part of federal institutions is unacceptable when it has a negative impact on Canadians' access to services in the official language of their choice. Institutions cannot merely try to fulfill their language requirements under section 25 of the Act; they have to produce results. Canadians have the right to receive services of equal quality in English and French from federal institutions even when a third party is acting on their behalf.

NEXT STEPS

Federal institutions must be proactive in using the necessary tools and procedures not only to ensure full compliance with their language obligations in the provision of services to the public, but also to assess the true performance of third parties acting on their behalf.

IMPACT OF THIRD PARTIES ON OFFICIAL LANGUAGE COMMUNITIES

The vitality of official language minority communities is another factor that must be taken into account before introducing any new service delivery modes. In his 2009–2010 annual report, the Commissioner of Official Languages recommended that the Prime Minister of Canada "take all required measures to ensure that new initiatives in alternative modes of service delivery . . . do not adversely affect the language rights of Canadians—in particular, members of official language minority communities."[9]

9. Office of the Commissioner of Official Languages, *Annual Report 2009–2010: Beyond Obligations, volume 1*, Ottawa, 2010, p. 26. On-line version (www.officiallanguages.gc.ca/html/ar_ra_2009_10_p7_e.php#Decentralization_or_erosion) accessed March 31, 2013.

1.5 Air Canada before the courts

ISSUE

Air Canada, the country's largest airline, is still having difficulty complying with Part IV of the *Official Languages Act*, which sets out obligations regarding communications with and services to the travelling public.

COMMISSIONER'S ACTIONS

The Commissioner has conducted several investigations into complaints about Air Canada and its performance in terms of communications with and services to the public. Between 2006 and 2013, 369 complaints alleged that Air Canada had not made the active offer of service on board its flights or in airports, or had not provided services to the travelling public in both official languages.

Unfortunately, Canadians are sometimes forced to go to court to get a proper response from Air Canada about the complaints against it, and the Commissioner sometimes has to intervene.

In 2007, the Commissioner intervened before the Federal Court of Appeal in *Air Canada v Thibodeau* to clarify Air Canada's language obligations with respect to its subsidiaries under section 10 of the *Air Canada Public Participation Act* and Part IV of the *Official Languages Act*. In its ruling, the Federal Court of Appeal confirmed that it is not enough for Air Canada to try to meet the language obligations set out in Part IV of the *Official Languages Act*. As the Act seeks to achieve specific results, Air Canada must ensure that the travelling public has equal access to services in either official language, regardless of whether these services are provided by Air Canada or third parties acting on its behalf.

In addition to concluding that a passive attitude is insufficient when it comes to official languages, the Federal Court of Appeal criticized the oppressive nature of Air Canada's appeal and ordered Air Canada to pay compensation of $7,000 to Mr. Thibodeau, an unusual amount in a case of this nature.

In 2010, the Commissioner was again the intervener in Federal Court proceedings initiated by Mr. and Ms. Thibodeau. This second case sought to clarify Air Canada's and Jazz's language obligations for international flights. The Thibodeaus also sought compensation for Air Canada's systemic failure to meet its obligations under the *Official Languages Act*.

In court, Air Canada denied that the breaches of its language duties were systemic. It also maintained that the Montreal Convention, an international agreement on air carriers' responsibilities, limits the Federal Court's power to award damages for violations of the *Official Languages Act*.

In 2011, the Federal Court reiterated that the *Official Languages Act* is quasi-constitutional in nature and therefore prevails in cases of conflict with other legislation. The Court also found that Air Canada and Jazz had not completely developed a reflex to proactively implement all the tools and procedures needed to comply with their language obligations, to measure their performance in this respect, and to set objectives for improvement.

These conclusions led the Court to rule that Air Canada does, in fact, have systemic problems regarding official languages. Consequently, the Federal Court ordered Air Canada to send a letter of apology and pay damages of $12,000 to the Thibodeaus. The Court also ordered the carrier to make all necessary efforts to comply with Part IV of the *Official Languages Act* and to implement a monitoring system and procedures to quickly identify, document and quantify potential violations of its language duties.

Air Canada appealed this ruling before the Federal Court of Appeal, which concluded that the Federal Court could not order the carrier to pay damages for violations that occur on international flights because of the provisions of the Montreal Convention. The Federal Court of Appeal also overturned the Federal Court's ruling on Air Canada's systemic breaches.

The Federal Court of Appeal's ruling has a significant impact on the scope of the *Official Languages Act* and on the effectiveness of the Federal Court's remedial powers. The Thibodeaus and the Commissioner requested and received leave to appeal this decision before the Supreme Court of Canada.

ASSESSMENT OF THE CURRENT SITUATION

Under the *Air Canada Public Participation Act*, Canada's national air carrier has been subject to the *Official Languages Act* since 1988. Certain provisions also confer obligations upon its third-party contractors, such as Jazz, but do not subject them directly to the *Official Languages Act*. Consequently, when the Commissioner receives complaints about Jazz's failing to offer or provide services in one of the official languages, he must investigate Air Canada (on behalf of which Jazz is acting) rather than Jazz itself. The Commissioner cannot make recommendations directly to Jazz.

To address this situation, the legislation regarding the language obligations of Air Canada and its third parties needs to be clarified.[10] To fill this serious legal void, the Minister of Transport tabled Bill C-17 in October 2011. However, considering that this is the fourth bill on the same subject (the previous three having died on the Order Paper in 2005, 2006 and 2007) and despite the fact that the Commissioner has made specific recommendations on this issue in two successive annual reports (2008–2009 and 2009–2010), the government does not seem to be giving this amending bill the priority it deserves.

Meanwhile, although there is no question that Air Canada is subject to the *Official Languages Act*, the carrier continues to favour a narrow interpretation of its language obligations. It is unfortunate that complainants like Mr. and Ms. Thibodeau have to go to court to get Air Canada to respect their language rights and, by extension, the language rights of all Canadians.

NEXT STEPS

There is an urgent need for Parliament to fill the existing legal void and clarify the language obligations of third parties acting on Air Canada's behalf. The current situation is having a negative impact on the language rights of the travelling public, and this impact is being felt every day.

10. The legal gaps discussed in this module also have an impact on Air Canada's ability to respect its employees' right to work in the official language of their choice. This issue is explored in module 2.4, page 40.

1.6 Substantive equality of Canada's official languages

ISSUE

Over the past 30 years, the Supreme Court of Canada has been asked repeatedly to define the scope of language rights guaranteed by the *Canadian Charter of Rights and Freedoms*. The Supreme Court has also intervened to determine how the principle of substantive equality of English and French applies in various areas, including minority language education rights. It was not until 2009, however, that the Supreme Court defined the application of this principle to service delivery, as well as the obligations of federal institutions under the Charter and the *Official Languages Act*.

COMMISSIONER'S ACTIONS

In 2000, the Centre d'avancement et de leadership en développement économique communautaire de la Huronie and its executive director, Raymond DesRochers, filed a complaint with then Commissioner of Official Languages Dyane Adam. The complaint alleged that Industry Canada had not provided services of equal quality in English and French through its North Simcoe Community Futures Development Corporation. Commissioner Adam's investigation report concluded that Industry Canada had failed to meet its obligations under the Act, and two follow-up reports showed that the institution had not fully resolved the issue. Accordingly, in 2004, Mr. DesRochers and the Centre d'avancement et de leadership en développement économique communautaire de la Huronie took the matter to court.

In 2007, *DesRochers v Canada (Industry)* went before the Supreme Court of Canada, with the Commissioner as co-appellant. In 2009, the Supreme Court of Canada issued its decision and found that, to achieve linguistic equality, the federal government might have to provide services with different content in English and French. The Supreme Court noted that a broad view must be adopted when looking at substantive equality: ". . . it is possible that substantive equality will not result from the development and implementation of identical services for each language community. The content of the principle of linguistic equality in government services is not necessarily uniform. It must be defined in light of the nature and purpose of the service in question."[11] With respect to the *DesRochers* case, the Supreme Court stated that "[i]t is difficult to imagine how [Industry Canada] could provide the community economic development services mentioned in this description without the participation of the targeted communities in both the development and the implementation of programs."[12]

Following this ruling, the Treasury Board of Canada Secretariat developed an analytical grid to help federal institutions in applying the Supreme Court ruling and in determining whether their programs or services need to be adjusted in order to provide services of equal quality to official language communities.

11. *DesRochers v Canada (Industry)*, [2009] 1 S.C.R. 194, 2009 SCC 8 at para. 51. On-line version (http://scc.lexum.org/decisia-scc-csc/scc-csc/scc-csc/en/item/6899/index.do) accessed March 31, 2013.

12. *DesRochers v Canada (Industry)*, [2009] 1 S.C.R. 194, 2009 SCC 8 at para. 53. On-line version (http://scc.lexum.org/decisia-scc-csc/scc-csc/scc-csc/en/item/6899/index.do) accessed March 31, 2013.

ASSESSMENT OF THE CURRENT SITUATION

To ensure that they are applying the principle of substantive equality when providing services to the public, federal institutions need to review their services and programs. According to the Treasury Board of Canada Secretariat, it is essential that federal institutions "take into account the principle of substantive equality in strategic planning, in the development and assessment of policies and programs, as well as in program expenditure reviews."[13]

NEXT STEPS

In 2012, Senator Maria Chaput tabled Bill S-211, which aims to amend the *Official Languages Act* to integrate the concept of federal institutions having to provide services of equal quality in English and French. The Commissioner strongly supports this bill and encourages parliamentarians to give it careful consideration.

13. Treasury Board of Canada Secretariat, *The Supreme Court of Canada Decision in the CALDECH (Desrochers) case and Analytical Grid*, Ottawa, 2011. On-line version (www.tbs-sct.gc.ca/olo/caldech/intro-eng.asp) accessed March 31, 2013.

1.7 Social media: The Act is a useful guide

ISSUE

The Government of Canada is increasing its use of social media, including blogs, wikis, Facebook and Twitter. These tools represent new forms of interaction between federal institutions, their employees and Canadians, including members of official language communities.

When the *Official Languages Act* was adopted in 1969, or even when it was amended in 1988, no one could have foreseen the rise of social media and its real-time, interactive communication. Indeed, the use of social media by the government and the public it serves may well have an impact on Canadians' access to services in English and French, on federal employees' being able to work in the official language of their choice and on the development of official language communities. The repercussions are still largely unknown.

In 2009, the Commissioner began to take a closer look at the language issues involved in the use of social media. He is now in a better position to address complaints on this subject. His office is also better equipped to effectively manage its Facebook page and Twitter account, two tools it has been using since 2012.

COMMISSIONER'S ACTIONS

Over the past four years, the Commissioner has often spoken about social media. In October 2011, in an appearance before the Standing Senate Committee on Official Languages, he stated, "Despite the challenges associated with advanced technologies, the interpretive principles of the [A]ct must continue to guide us . . . . One of the most important principles is clearly the substantive equality of the two official languages. Federal institutions that have already integrated linguistic duality as a value will know how to adapt their practices to the Web 2.0 universe: for example, by using two versions of the same social media, such as a Twitter or Facebook account in English, and another one in French."[14]

In February 2013, the Commissioner was invited to take part in a workshop on the application of the Act organized by Human Resources and Skills Development Canada. He emphasized that federal institutions must carefully consider the possible consequences of their technology choices on official language communities and on Canadians in general. "Using new technologies can be a good way to make your services accessible to a wider audience, but federal institutions must also be careful not to lose touch with Canadians who are not comfortable with these new technologies, whether because of technological problems, geographical remoteness or illiteracy. Therefore, before closing offices and replacing them with new technologies, a thorough evaluation needs to be made."[15]

ASSESSMENT OF THE CURRENT SITUATION

Federal institutions' use of social media is governed by a number of policies and directives. The Treasury Board has established guidelines and directives such as the *Guideline to Acceptable Use*

14. Standing Senate Committee on Official Languages, *Proceedings of the Standing Senate Committee on Official Languages*, Issue 2, Ottawa, October 24, 2011, p. 12. On-line version (www.parl.gc.ca/Content/SEN/Committee/411/ollo/02eva-49113-e.htm) accessed March 31, 2013.

15. Commissioner of Official Languages, *Moving Forward with New Technologies: Official Languages and Web 2.0*, Notes for an address at a workshop on the application of the *Official Languages Act* at Human Resources and Skills Development Canada, Ottawa, February 5, 2013. On-line version (www.officiallanguages.gc.ca/html/speech_discours_5022013_e.php) accessed March 31, 2013.

of Internal Wikis and Blogs Within the Government of Canada and the *Guideline for External Use of Web 2.0*. Using these tools helps federal institutions fulfill their language obligations in terms of service to the public and language of work.

In the fall of 2012, the Standing Senate Committee on Official Languages published a report called *Internet, New Media and Social Media: Respect for Language Rights!* The report states that federal institutions must use Web 2.0 tools in a manner that respects the equal status of English and French, and that they must help official language communities use the technologies to foster their development. The report's six recommendations include ensuring Internet access for all communities, supporting the development of French-language content, supporting innovative social media projects and sharing best practices for the use of social media within the federal government.

NEXT STEPS

In the next few years, the Commissioner will be closely monitoring federal institutions' use of social media, both as a means of communication with the Canadian public and as a work tool for federal employees. The federal government would do well to give serious thought as to how it can maximize the benefits that social media and other Web technologies can bring to the development of official language communities.

"Thanks to information technology and social media, Canadians have tools that simply didn't exist not that long ago. Today, physical distance is merely a technicality. New technologies are opening all kinds of doors. You can explore both English and French culture with the click of a mouse."[16]

-Graham Fraser, Commissioner of Official Languages

16. Commissioner of Official Languages, *Notes for an address to students at the CEGEP de la Gaspésie et des Îles*, Magdalen Islands, Quebec, September 12, 2011.

1.8 Québec City Marine Rescue Sub-Centre: Impact of restructuring

ISSUE

In 2011, the federal government announced the closure of the Marine Rescue Sub-Centre in Québec City. Marine distress calls from vessels in the waters of Eastern Canada would now be handled by the Trenton and Halifax Joint Rescue Coordination Centres. This announcement triggered strong reactions from people worried about losing the public's right to be served in French. In the wake of this announcement, the Commissioner received several complaints against Fisheries and Oceans Canada.

COMMISSIONER'S ACTIONS

The Commissioner conducted an investigation to evaluate whether the decision of Fisheries and Oceans Canada contravened Parts IV and VII of the *Official Languages Act*, which deal respectively with communications with and services to the public, and the promotion of English and French. The Commissioner then decided to expand the investigation to include National Defence, which is responsible for coordinating maritime search and rescue in Canada.

At the time the Commissioner's final investigation report was submitted, the Trenton and Halifax Joint Rescue Coordination Centres still did not have the capacity to handle distress calls in English and French equally at all times. The complaints were therefore considered to be founded under Part IV of the Act.

ASSESSMENT OF THE CURRENT SITUATION

The Commissioner's follow-up report revealed that Fisheries and Oceans Canada had not implemented the first three recommendations of the final investigation report, which means that it had not yet fully met its language obligations under the Act. The follow-up report also showed that National Defence does not yet have sufficient bilingual staff at the Halifax Joint Rescue Coordination Centre.

No follow-up was conducted for the Trenton Joint Rescue Coordination Centre, as Fisheries and Oceans Canada had already confirmed that the centre was not able to handle calls equally in English and French.

According to the Commissioner, if Fisheries and Oceans Canada cannot demonstrate that service is equally available in both official languages at all times and that it will remain so over the long term, the Québec City Marine Rescue Sub-Centre should not be closed. The risk of compromising marine safety is too great. Fisheries and Oceans Canada and National Defence absolutely must ensure that timely and appropriate services are available in English and French.

NEXT STEPS

When taking measures to modernize service delivery, federal institutions need to understand the impact their decision may have on their capacity to continue providing services of equal quality in both official languages. Limiting access to public services in English and French clearly has a negative impact on the vitality of official language communities.

Overview of observations: 2006–2013 1.9

ISSUE

The Office of the Commissioner regularly conducts anonymous observations to evaluate how well federal institutions are complying with their obligations under Part IV of the *Official Languages Act*, which governs communications with and services to the public.

OBSERVATIONS

IN-PERSON OBSERVATIONS

From 2006 to 2013, the Office of the Commissioner conducted 142 series of in-person observations[17] in 61 institutions to evaluate how well federal offices with language obligations served Canadians in the official language of their choice. This represents 6,673 anonymous observations that were made in the institutions' bilingual offices over the seven-year period.

Table 1 shows that most of the federal institutions observed in person made the visual active offer of service in their bilingual offices. More than four out of five times between 2006 and 2013, institutions obtained results of 80% or above.

As indicated by the asterisks in Table 4, the following eight federal institutions received a result of 90% or above on visual active offer each time they were observed by the Office of the Commissioner: the Canada Border Services Agency, Canada Post, the Canada Revenue Agency, Canada's National Arts Centre, the Canadian Museum of Civilization Corporation, the Canadian Tourism Commission, Citizenship and Immigration Canada and Passport Canada.

Table 1, however, shows that very few institutions obtained good results for the active offer in person, which involves the use of phrases like "Hello! Bonjour!" or "Next! Suivant!" Only one out of ten times between 2006 and 2013, institutions obtained results of 60% or above. As shown in Table 3, only one institution—the National Capital Commission—received results of 60% or above for the active offer in person.

Table 1 illustrates the fact that federal offices required to provide services in both official languages are inconsistent when it comes to availability of service in the official language of the linguistic minority. In half of the series of

TABLE 1

IN-PERSON OBSERVATIONS (2006–2013)

	NUMBER OF TIMES AN INSTITUTION OBTAINED A RESULT OF 80% OR ABOVE	NUMBER OF TIMES AN INSTITUTION OBTAINED A RESULT OF 60% TO 79%	NUMBER OF TIMES AN INSTITUTION OBTAINED A RESULT OF 59% OR BELOW
VISUAL ACTIVE OFFER	116	22	4
ACTIVE OFFER IN PERSON	4	10	128
SERVICE AVAILABLE	71	46	25

17. The Office of the Commissioner consulted Statistics Canada to determine the number of observations required for a representative sample.

observations, institutions obtained results of 80% or above. In nearly a third of the series of observations, institutions obtained results of 60% to 79%. As shown in Table 5, only six federal institutions received results of 90% or above: Canada's National Arts Centre, the Canadian Museum of Civilization Corporation, the Canadian Tourism Commission, the Economic Development Agency of Canada for the Regions of Quebec, the National Capital Commission and Passport Canada.

TABLE 2
TELEPHONE OBSERVATIONS (2006–2013)

	NUMBER OF TIMES AN INSTITUTION OBTAINED A RESULT OF 80% OR ABOVE	NUMBER OF TIMES AN INSTITUTION OBTAINED A RESULT OF 60% TO 79%	NUMBER OF TIMES AN INSTITUTION OBTAINED A RESULT OF 59% OR BELOW
ACTIVE OFFER BY TELEPHONE	89	23	7
SERVICE AVAILABLE	92	18	9

TELEPHONE OBSERVATIONS

The Office of the Commissioner conducted 119 series of observations in 53 institutions to evaluate how well federal offices with language obligations served Canadians by telephone in the official language of their choice. This represents 3,384 anonymous observations that were made by telephone to the institutions' designated bilingual offices between 2006 and 2013. According to the observations, federal institutions' performance was much better by telephone than in person.

As indicated in Table 2, three out of four times, institutions obtained results of 80% or above for active offer and availability of service by telephone in the official language of the linguistic minority.

The high scores recorded for service delivery by telephone are partly due to the fact that many institutions use automated systems that provide callers with the option to be served in the official language of their choice. This also explains why the numbers for active offer and availability of service are generally the same. However, even though Canadians are able to access the government services they are looking for in the official language of their choice by telephone, they sometimes have to wait a bit longer to receive them. Therefore, the services cannot be described as being of equal quality.

ASSESSMENT OF THE SITUATION

The observations conducted over the past seven years indicate that most federal institutions make the visual active offer of service in both official languages, that too many continue to have difficulty making the in-person active offer of service, and that some have a lot more difficulty than others in serving Canadians in both official languages.

TABLE 3
ACTIVE OFFER IN PERSON: SCORES FOR INSTITUTIONS THAT WERE OBSERVED AT LEAST THREE TIMES (2006–2013)

INSTITUTIONS THAT OBTAINED 80% OR ABOVE IN THE MAJORITY* OF THE OBSERVATIONS	INSTITUTIONS THAT OBTAINED 60% TO 79% IN THE MAJORITY* OF THE OBSERVATIONS	INSTITUTIONS THAT OBTAINED LESS THAN 60% IN THE MAJORITY* OF THE OBSERVATIONS
	National Capital Commission	Aboriginal Affairs and Northern Development Canada
		Agriculture and Agri-Food Canada
		Air Canada
		Atlantic Canada Opportunities Agency
		Business Development Bank of Canada
		Canada Border Services Agency
		Canada Mortgage and Housing Corporation
		Canada Post
		Canada Revenue Agency
		Canada's National Arts Centre
		Canadian Air Transport Security Authority
		Canadian Food Inspection Agency
		Canadian Museum of Civilization Corporation
		Canadian Tourism Commission
		CBC/Radio-Canada
		Citizenship and Immigration Canada
		Correctional Service of Canada
		Economic Development Agency of Canada for the Regions of Quebec
		Fisheries and Oceans Canada
		Halifax Robert L. Stanfield International Airport Authority
		Health Canada

*Because the institutions' scores were not necessarily uniform across all observations, calculations were based on performance in the majority of the observations.

TABLE 3
ACTIVE OFFER IN PERSON: SCORES FOR INSTITUTIONS THAT WERE OBSERVED AT LEAST THREE TIMES (2006–2013) *(cont.)*

INSTITUTIONS THAT OBTAINED 80% OR ABOVE IN THE MAJORITY* OF THE OBSERVATIONS	INSTITUTIONS THAT OBTAINED 60% TO 79% IN THE MAJORITY* OF THE OBSERVATIONS	INSTITUTIONS THAT OBTAINED LESS THAN 60% IN THE MAJORITY* OF THE OBSERVATIONS
		Industry Canada
		National Film Board of Canada
		Ottawa Macdonald-Cartier International Airport Authority
		Parks Canada
		Passport Canada
		Public Works and Government Services Canada
		Royal Canadian Mounted Police
		Transport Canada
		VIA Rail Canada Inc.
		Western Economic Diversification Canada

* Because the institutions' scores were not necessarily uniform across all observations, calculations were based on performance in the majority of the observations.

TABLE 4

VISUAL ACTIVE OFFER SCORES FOR INSTITUTIONS THAT WERE OBSERVED AT LEAST THREE TIMES (2006–2013)

INSTITUTIONS THAT OBTAINED 80% OR ABOVE IN THE MAJORITY* OF THE OBSERVATIONS	INSTITUTIONS THAT OBTAINED 60% TO 79% IN THE MAJORITY* OF THE OBSERVATIONS	INSTITUTIONS THAT OBTAINED LESS THAN 60% IN THE MAJORITY* OF THE OBSERVATIONS
Air Canada	Aboriginal Affairs and Northern Development Canada	
Business Development Bank of Canada	CBC/Radio-Canada	
Canada Border Services Agency†	Halifax Robert L. Stanfield International Airport Authority	
Canada Mortgage and Housing Corporation	Royal Canadian Mounted Police	
Canada Post†		
Canada Revenue Agency†		
Canada's National Arts Centre†		
Canadian Air Transport Security Authority		
Canadian Food Inspection Agency		
Canadian Museum of Civilization Corporation†		
Canadian Tourism Commission†		
Citizenship and Immigration Canada†		
Correctional Service of Canada		
Economic Development Agency of Canada for the Regions of Quebec		
Health Canada		
Industry Canada		
National Capital Commission		

*Because the institutions' scores were not necessarily uniform across all observations, calculations were based on performance in the majority of the observations.

† Institutions that obtained 90% or above

TABLE 4

VISUAL ACUITY OFFICIAL SCORES FOR INSTITUTIONS THAT WERE OBSERVED AT LEAST THREE TIMES (2006–2013) *(cont.)*

INSTITUTIONS THAT OBTAINED 80% OR ABOVE IN THE MAJORITY* OF THE OBSERVATIONS	INSTITUTIONS THAT OBTAINED 60% TO 79% IN THE MAJORITY* OF THE OBSERVATIONS	INSTITUTIONS THAT OBTAINED LESS THAN 60% IN THE MAJORITY* OF THE OBSERVATIONS
National Film Board of Canada		
Ottawa Macdonald-Cartier International Airport Authority		
Parks Canada		
Passport Canada†		
Public Works and Government Services Canada		
VIA Rail Canada Inc.		
Western Economic Diversification Canada		

* Because the institutions' scores were not necessarily uniform across all observations, calculations were based on performance in the majority of the observations.

† Institutions that obtained 90% or above.

TABLE 5

AVAILABILITY OF SERVICE: SCORES FOR INSTITUTIONS THAT WERE OBSERVED AT LEAST THREE TIMES (2006–2013)

INSTITUTIONS THAT OBTAINED 80% OR ABOVE IN THE MAJORITY* OF THE OBSERVATIONS	INSTITUTIONS THAT OBTAINED 60% TO 79% IN THE MAJORITY* OF THE OBSERVATIONS	INSTITUTIONS THAT OBTAINED LESS THAN 60% IN THE MAJORITY* OF THE OBSERVATIONS
Atlantic Canada Opportunities Agency	Agriculture and Agri-Food Canada	Aboriginal Affairs and Northern Development Canada
Canada Border Services Agency	Canada Revenue Agency	Business Development Bank of Canada
Canada Post	Canadian Air Transport Security Authority	Halifax Robert L. Stanfield International Airport Authority
Canada's National Arts Centre†	Canadian Food Inspection Agency	Ottawa Macdonald-Cartier International Airport Authority
Canadian Museum of Civilization Corporation†	CBC/Radio-Canada	
Canadian Tourism Commission†	Citizenship and Immigration Canada	
Economic Development Agency of Canada for the Regions of Quebec†	Correctional Service of Canada	
Fisheries and Oceans Canada	Health Canada	
National Capital Commission†	Industry Canada	
Parks Canada	National Film Board of Canada	
Passport Canada†	Royal Canadian Mounted Police	
Public Works and Government Services Canada	Transport Canada	
VIA Rail Canada Inc.		
Western Economic Diversification Canada		

* Because the institutions' scores were not necessarily uniform across all observations, calculations were based on performance in the majority of the observations.
† Institutions that obtained 90% or above.

1.10 Part IV complaints: 2006–2013

Complaints under Part IV of the *Official Languages Act* relate to communications with and services to the public. These complaints primarily concern federal institutions that are in close, everyday contact with Canadians.

Between 2006 and 2013, 2,581 admissible Part IV complaints were filed with the Commissioner. These complaints accounted for 48% of all admissible complaints over the past seven years.

Despite the fact that a significant number of Part IV complaints were filed each year, the number of these complaints has generally declined from 2006 to 2013.

Although Air Canada had the most Part IV complaints filed against it between 2006 and 2013, its numbers have been steadily declining since 2007–2008 and have dropped 46% over the past six years. The number of complaints about Air Canada did rise 41% in the past year, however, from 29 in 2011–2012 to 41 in 2012–2013.

Complaints filed under Part IV of the Act between 2006 and 2013 mostly concerned federal institutions' use of English and French in the areas of written communications, services to the travelling public and services in person.

FIGURE 1

COMPLAINTS UNDER PART IV OF THE *OFFICIAL LANGUAGES ACT* (2006–2013)

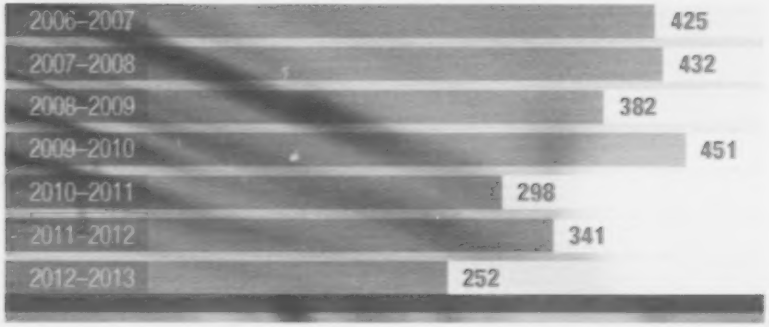
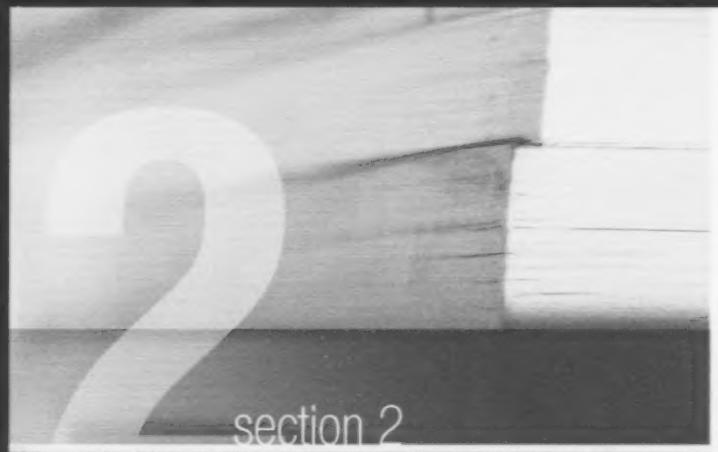


TABLE 1

FEDERAL INSTITUTIONS WITH THE MOST COMPLAINTS UNDER PART IV OF THE *OFFICIAL LANGUAGES ACT* (2006–2013)

FEDERAL INSTITUTION	NUMBER OF COMPLAINTS
Air Canada	369
Canada Post	232
Canada Border Services Agency	156
Canadian Heritage	125
Canadian Air Transport Security Authority	116
Service Canada	104
Canada Revenue Agency	92
Royal Canadian Mounted Police	90
Correctional Service of Canada	75
National Defence	63

Other areas in which many Canadians filed Part IV complaints included telephone communications, Internet (Web sites), media communications, public events and third-party services.



section 2

MODULE 2.1
LANGUAGE OF WORK: AN INDIVIDUAL RIGHT 30

MODULE 2.2
LANGUAGE TRAINING: THINKING OUTSIDE THE BOX 35

MODULE 2.3
LINGUISTIC DESIGNATION OF POSITIONS 37

MODULE 2.4
AIR CANADA AND LANGUAGE OF WORK 40

MODULE 2.5
PART V COMPLAINTS: 2006–2013 42

As a federal employee, do I feel comfortable working in the official language of my choice?

Even today, there are too many federal public service employees who cannot fully exercise their right to work in English or French in regions that are designated as bilingual for language-of-work purposes.

This troubling situation is the result of a number of factors, including inadequate language requirements for public service positions. As a result, there are too many supervisors who do not have a high enough level of English or French to be able to communicate effectively in the official language of their employees' choice.

Another factor is the use of technology-based management approaches. This means that employees in regions designated as bilingual for language-of-work purposes, such as New Brunswick, must sometimes work under the remote supervision of managers in regions designated as unilingual for language-of-work purposes. These managers may therefore be less inclined to create a work environment that is truly bilingual.

All too often, executives and middle managers in federal institutions are not setting the right tone for their staff. They are not sending a clear message that employees can use the official language of their choice in regions designated as bilingual for language-of-work purposes, even when preparing written material.

Despite the changes in the federal public service as a result of budget cuts, it is still important for the Government of Canada and its federal institutions to create a workplace that is truly bilingual. This kind of environment will ultimately improve efficiency and foster creativity among all federal employees.

2.1 Language of work: An individual right

ISSUE

In regions that are designated as bilingual for language-of-work purposes, there are still too many federal employees who are not able to work in the official language of their choice, even though this is a right guaranteed under Part V of the *Official Languages Act*, which deals with language of work. Many federal employees complain specifically about not being able to participate in meetings or prepare written material in the official language of their choice. Some also say that the emergence of virtual management models, where virtual teams include members in different parts of the country, is having a negative impact on employees' being able to use their choice of English or French at work.

COMMISSIONER'S ACTIONS

In 2011, the Commissioner published a study called *Beyond bilingual meetings: Leadership behaviours for managers*, which showcased the behaviour of federal managers who have been successful in creating a workplace conducive to the use of both official languages. The study led to the creation of a tool to help managers assess whether their behaviour makes it easier or more difficult for their employees to work in the official language of their choice.

This study is intended to be useful for federal institutions and their managers. In regions designated as bilingual for language-of-work purposes, it is the leadership of the managers that ultimately determines whether employees can exercise their right to use the official language of their choice at work. In fact, this right can only be exercised fully and comfortably if senior federal officials, middle managers and immediate supervisors take concrete action every day so that their employees can communicate in the official language of their choice.

The Commissioner has observed that the growing use of virtual management models is resulting in some employees' workplaces becoming less conducive to the use of both official languages. Creating virtual teams with employees and managers from regions with different language-of-work designations raises major issues in terms of the language requirements for supervisory positions. To comply with the Act, the new management models will need to be implemented by managers who have the required skills and experience to create a workplace that is truly bilingual.

Given the importance of this emerging issue, the Commissioner plans to conduct an audit on the impact of new service management models on official languages.

ASSESSMENT OF THE CURRENT SITUATION

Between 2006 and 2013, the Treasury Board of Canada Secretariat released the results of three public service employee surveys conducted in 2005, 2008 and 2011. Federal employees' answers to the following five survey questions on language of work[1] help the Commissioner assess institutions' compliance with Part V of the Act.

1. Statistics Canada, *Public Service Employee Survey*, 2011, Questions 2, 3, 21, 25 and 33.
On-line version (www23.statcan.gc.ca/imdb/p3Instr.pl?Function=assembleInstr&lang=en&Item_Id=123117) accessed March 31, 2013.

1. Material and tools: The material and tools provided for my work, including software and other automated tools, are available in the official language of my choice.
2. Written materials: When I prepare written materials, including electronic mail, I feel free to use the official language of my choice.
3. Training: The training offered by my department or agency is available in the official language of my choice.
4. Meetings: During meetings in my work unit, I feel free to use the official language of my choice.
5. Supervision: When I communicate with my immediate supervisor, I feel free to use the official language of my choice.

Until 2005, the survey included a sixth question about federal employees' access to language training in their second official language. It is important to include this statement again in future surveys.

Tables 1 through 4 present the results for each of these questions for English- and French-speaking federal employees in regions that are designated as bilingual for language-of-work purposes.

Table 1 shows that in the survey results from Quebec (except for the Quebec part of the National Capital Region), the proportion of English- and French-speaking employees who felt free to use the official language of their choice when preparing written materials dropped by 5% between 2005 and 2011.

TABLE 1

SATISFACTION* OF FEDERAL EMPLOYEES WHO WORK IN QUEBEC† IN REGIONS THAT ARE DESIGNATED AS BILINGUAL FOR LANGUAGE-OF-WORK PURPOSES

	STATEMENT 1 MATERIAL AND TOOLS		STATEMENT 2 WRITTEN MATERIALS		STATEMENT 3 TRAINING		STATEMENT 4 MEETINGS		STATEMENT 5 SUPERVISION	
	English-speaking employees (%)	French-speaking employees (%)	English-speaking employees (%)	French-speaking employees (%)	English-speaking employees (%)	French-speaking employees (%)	English-speaking employees (%)	French-speaking employees (%)	English-speaking employees (%)	French-speaking employees (%)
2005	86	93	78	82	61	81	70	93	83	97
2008	83	91	70	78	67	88	68	90	81	97
2011	85	90	73	77	68	89	73	91	84	97

* Includes the proportion of employees who somewhat or strongly agree with each question.

† Excludes the Quebec part of the National Capital Region.

However, the percentage of employees who said that training was offered in both official languages rose during the same period.

It should be noted that far fewer Anglophones than Francophones in Quebec said that they were satisfied with being able to use the official language of their choice in training that was offered to them, during meetings they attended and during interactions they had with their supervisors.

As shown in Table 2, French-speaking employees who work in Ontario (except for the Ontario part of the National Capital Region) said that they were more satisfied in 2011 than they were in 2005 with training, meetings and supervision in the official language of their choice.

This improvement is insufficient, however, given the fact that significantly fewer Francophones than Anglophones said that they were satisfied with the situation when it comes to these three questions.

The gap between the two groups is greatest (28%) for employees who felt comfortable using the official language of their choice during meetings.

Table 3 shows that in New Brunswick, the proportion of French-speaking employees who are satisfied with being able to use the official language of their choice increased slightly between 2005 and 2011 with respect to training, meetings and supervision.

TABLE 2

SATISFACTION* OF FEDERAL EMPLOYEES WHO WORK IN ONTARIO† IN REGIONS THAT ARE DESIGNATED AS BILINGUAL FOR LANGUAGE OF WORK PURPOSES

	STATEMENT 1 MATERIAL AND TOOLS		STATEMENT 2 WRITTEN MATERIALS		STATEMENT 3 TRAINING		STATEMENT 4 MEETINGS		STATEMENT 5 SUPERVISION	
	English-speaking employees (%)	French-speaking employees (%)	English-speaking employees (%)	French-speaking employees (%)	English-speaking employees (%)	French-speaking employees (%)	English-speaking employees (%)	French-speaking employees (%)	English-speaking employees (%)	French-speaking employees (%)
2005	95	89	93	77	86	66	88	54	91	68
2008	95	86	94	73	91	77	91	59	94	72
2011	95	86	94	75	92	77	92	64	94	76

* Includes the proportion of employees who somewhat or strongly agree with each question

† Excludes the Ontario part of the National Capital Region

TABLE 3

SATISFACTION* OF FEDERAL EMPLOYEES WHO WORK IN NEW BRUNSWICK, WHICH IS DESIGNATED AS BILINGUAL FOR LANGUAGE OF WORK PURPOSES

	STATEMENT 1 MATERIAL AND TOOLS		STATEMENT 2 WRITTEN MATERIALS		STATEMENT 3 TRAINING		STATEMENT 4 MEETINGS		STATEMENT 5 SUPERVISION	
	English-speaking employees (%)	French-speaking employees (%)	English-speaking employees (%)	French-speaking employees (%)	English-speaking employees (%)	French-speaking employees (%)	English-speaking employees (%)	French-speaking employees (%)	English-speaking employees (%)	French-speaking employees (%)
2005	95	89	89	76	90	75	91	71	94	83
2008	96	88	91	73	92	81	91	73	95	87
2011	94	87	91	76	92	83	91	76	94	87

* Includes the proportion of employees who somewhat or strongly agree with each question

TABLE 4

SATISFACTION* OF FEDERAL EMPLOYEES WHO WORK IN THE NATIONAL CAPITAL REGION† WHICH IS DESIGNATED AS BILINGUAL FOR LANGUAGE OF WORK PURPOSES

	STATEMENT 1 MATERIAL AND TOOLS		STATEMENT 2 WRITTEN MATERIALS		STATEMENT 3 TRAINING		STATEMENT 4 MEETINGS		STATEMENT 5 SUPERVISION	
	English-speaking employees (%)	French-speaking employees (%)	English-speaking employees (%)	French-speaking employees (%)	English-speaking employees (%)	French-speaking employees (%)	English-speaking employees (%)	French-speaking employees (%)	English-speaking employees (%)	French-speaking employees (%)
2005	97	86	93	65	90	78	93	69	96	81
2008	96	83	92	61	93	82	92	67	96	82
2011	96	84	93	63	93	84	94	70	96	84

* Includes the proportion of employees who somewhat or strongly agree with each question

† Includes the Quebec and Ontario parts

SOURCE: As a federal employee, do I feel comfortable working in the official language of my choice?

Table 4 shows that the greatest difference between the perceptions of English- and French-speaking employees is in the National Capital Region, which includes parts of both Quebec and Ontario. In particular, significantly fewer Francophones than Anglophones feel comfortable using the official language of their choice in writing or during meetings.

In six years, the situation of French-speaking employees who work in the National Capital Region has slightly deteriorated or remained virtually the same, except when it comes to the use of French in training courses or in communications with supervisors.

Overall, the issue of being able to write and to participate in meetings in either official language continues to be a sensitive one in all regions that are designated as bilingual for language-of-work purposes. There is still a lot of work to do to ensure that all federal employees are satisfied with the status of English and French in the workplace.

NEXT STEPS

In regions that are designated as bilingual for language-of-work purposes, employees' right to work in the official language of their choice depends mainly on the leadership of their managers, and especially on the leadership of their senior executives.

Managers at all levels are responsible for using both English and French so that their employees feel free to communicate with them in the official language of their choice. Managers need to demonstrate their leadership, show their respect and prove their willingness to create a bilingual work environment that encourages all federal employees to be productive and creative.

Although the federal public service is going through major changes, budget cuts and subsequent massive job cuts do not justify ignoring Part V of the Act. In these difficult times when federal employees are feeling particularly vulnerable, it is important for senior executives in all institutions to lead by example and make it clear that employees who have the right to work in the official language of their choice can continue to feel free to exercise that right.

More widespread use of technology and virtual management approaches must not infringe on federal employees' right to work in their first official language. Supervisors must show leadership—regardless of whether they work in the same location as their employees, or whether they are in daily contact—so that both official languages are given equal status in the workplace.

Federal institutions cannot strengthen the status of English and French in the workplace without closely monitoring the situation in their own offices. This means that the federal government should continue to conduct the public service employee survey and include the five questions about language of work. This survey is only one of many tools that can be used to measure employee satisfaction with language of work. Each institution should also implement its own internal monitoring mechanisms and take necessary action to address any shortcomings.

Language training: Thinking outside the box 2.2

ISSUE

In 2006, the Treasury Board decided to decentralize government involvement in language training for public service employees. This decision led to many changes. For example, with the gradual withdrawal of the Canada School of Public Service from the language training sector between 2006 and 2012, deputy heads of federal institutions are now responsible for managing language training within their own organizations. And training services that used to be offered by the Canada School of Public Service are now being provided by private companies.

Because there is no central organization currently monitoring or assessing the impact of this decentralization, it is not known whether federal employees currently have sufficient access to high-quality language training. This issue is critical, because in order to create a workplace conducive to the use of both official languages, employees in certain key positions need to be fluently bilingual and to remain fluently bilingual. Creating this kind of environment also depends on employees' getting the support they need to improve or maintain their language skills so that they can further their career in the public service.

COMMISSIONER'S ACTIONS

To address the lack of knowledge on language training for federal employees, the Commissioner recently conducted a study called *Challenges: The new environment for language training in the federal public service*. Published in September 2013, this study described the measures federal institutions have taken with regard to language training for their employees. It also identified the challenges institutions are facing with respect to language training management, assessed the effects of decentralizing language training responsibilities and defined effective practices.

ASSESSMENT OF THE CURRENT SITUATION

The Commissioner's study on language training showed that, in the National Capital Region, federal institutions can use Public Works and Government Services Canada's standing offer system to find training service providers. If they wish, they can also use their own standing offers, sole-sourcing or competitive processes.

Outside the National Capital Region, however, the Treasury Board's 2006 decision resulted in a lot of lost ground in language training. For example, some projects were interrupted, and some

NATIONAL DEFENCE: AUDIT AND FOLLOW-UP

In 2010, the Commissioner of Official Languages published an audit report on the Canadian Forces' Individual Training and Education System. The Commissioner made 20 recommendations to help the institution manage its system in full compliance with the *Official Languages Act*.

From December 2012 to January 2013, the Commissioner conducted a follow-up of the audit to assess the progress made by the Canadian Forces in implementing the 20 recommendations. Published in June 2013, the follow-up report revealed that the institution had implemented most of the recommendations either partially or wholly.

In the follow-up report, the Commissioner recognized the Canadian Forces' efforts in implementing his recommendations. In particular, he acknowledged the excellent work done by the Official Languages Directorate and encouraged the Directorate to continue its efforts in this regard.

institutions did not know how or where or whom to contact to obtain training services, because the Canada School of Public Service's regional offices were no longer coordinating language training. Public Works and Government Services Canada and the Canada School of Public Service are currently working to develop a joint standing offer, which could help to rectify some of the shortcomings identified in the Commissioner's study.

NEXT STEPS

Having to deal with budget cuts does not in any way change the fact that federal institutions need to maintain their investment in language training for their employees and supervisors. Senior executives must show leadership to ensure that language training is given the priority it deserves within their institutions.

Individual instruction and classroom courses are not the only ways for employees or supervisors to improve or maintain their second-language[2] skills. Federal institutions need to start getting creative and thinking outside the box when it comes to language training for employees. For example, some have achieved excellent results with mentoring programs.

To help federal institutions adopt effective practices in language training, the Commissioner's study presents both traditional and innovative approaches that they could use. This will help deputy ministers, managers and employees find information and practical tools on topics that are relevant to them, such as managing a training program, selecting a supplier, maintaining skills and assessing the results of an approach.

2. In this report, the adjective "second-language" is used to mean "second-official-language."

Linguistic designation of positions 2.3

ISSUE

Some positions in the federal government are designated bilingual and others are designated unilingual. Section 91 (Part XI) of the *Official Languages Act* sets out the need for objectivity when determining the language requirements of positions. These requirements must be based on the duties to be carried out to serve members of the public in the language of their choice or to fulfill language-of-work obligations.

COMMISSIONER'S ACTIONS

Between 2006 and 2013, the Commissioner received 346 admissible complaints related to section 91 of the Act.

Even though the volume of section 91 complaints was generally low between 2006 and 2013, most of the institutions listed in Table 1 generated complaints every year.

The section 91 situation at Human Resources and Skills Development Canada is a good example of how, through the leadership of its senior management and the enthusiasm of its employees, a federal institution can solve a problem and take action to resolve a recurring issue.

TABLE 1
FEDERAL INSTITUTIONS WITH THE MOST COMPLAINTS UNDER SECTION 91 (PART XI) OF THE *OFFICIAL LANGUAGES ACT* (2006–2013)

FEDERAL INSTITUTION	NUMBER OF COMPLAINTS
Correctional Service of Canada	25
Public Works and Government Services Canada	25
Canada Border Services Agency	23
National Defence	21
Human Resources and Skills Development Canada	20
Fisheries and Oceans Canada	19
Health Canada	18
Industry Canada	16
Environment Canada	15
Transport Canada	15

For a number of years, section 91 complaints were being regularly filed against Human Resources and Skills Development Canada, and resolving them was often a long and difficult process. At the end of the summer of 2012, 13 complaints that had been filed in 2011 and 2012 concerning 23 staffing processes had still not been resolved.

The Commissioner conducted an investigation into these staffing processes to determine to what extent Human Resources and Skills Development Canada had objectively determined the language requirements of the positions ("English essential" or "Bilingual BBB/BBB").[3] The Commissioner found that, in all cases, the language requirements established by the Department for each position were inadequate and had not been objectively evaluated. The unilingual positions should have been designated bilingual, and the BBB/BBB linguistic profile of the bilingual positions should have been CBC/CBC.

As a result of meetings in the fall of 2012 with the Office of the Commissioner, Human Resources and Skills Development Canada's senior management agreed to develop a corrective plan for inadequate linguistic designations and profiles. It also agreed to establish directives for managers and introduce measures to improve compliance with section 91 of the Act.

3. Federal government employees in bilingual positions must have language skills in reading comprehension, written expression and oral interaction in their second official language. There are three levels for each skill: A (beginner), B (intermediate) and C (advanced).

This commitment came from the executive level, and the Department then proceeded to put its words into action. It developed new training programs, issued an information bulletin, conducted awareness campaigns for managers and implemented a monitoring process to double-check the language requirements for positions before they are posted.

By March 31, 2013, most of the complaints had been resolved. Since Human Resources and Skills Development Canada has put its corrective measures in place, its performance in complying with section 91 of the Act has improved.

Between 2006–2007 and 2011–2012, for all institutions, the vast majority of section 91 complaints (81%) have related to cases in which the linguistic profile of a position was believed to be too low. Since 2009, an increasing number of cases have involved positions at the BBB/BBB level that should be raised to the CBC/CBC level. In most of the cases, the Commissioner concluded in favour of the complainant, since he believes that the level-of-language purposes skills required to supervise employees in regions designated as bilingual for language-of-work purposes should be at least CBC/CBC.

In the National Capital Region and in the Montréal area, the Commissioner observed a significant decrease between 2006–2007 and 2011–2012 (from well over 50% to less than 50%) in the percentage of positions at the CBC/CBC or CCC/CCC level, which correspond to his recommended linguistic profiles for supervisory positions. This decline, which was accompanied by a corresponding increase in the proportion of positions having a BBB/BBB profile or "various language requirements," is worrying.[4]

ASSESSMENT OF THE CURRENT SITUATION

Only by objectively evaluating the language requirements of a position can a federal institution effectively fulfill its service-to-the-public obligations and create a truly bilingual work environment. Nonetheless, there are still too many institutions that do not take section 91 of the Act sufficiently into account in their staffing actions.

VIA RAIL AND SECTION 91

An important case arose in 2009 regarding the application of section 91 (Part XI) of the *Official Languages Act*, which concerns the language requirements of positions. The Commissioner of Official Languages intervened before the Federal Court as part of a remedy initiated by complainants against their employer, VIA Rail Canada Inc.[5] The Federal Court had to determine whether VIA Rail had respected section 91 when it imposed language requirements on certain positions assigned to certain train routes, even though the *Official Languages (Communications with and Services to the Public) Regulations* do not require the delivery of services in English and in French to the public on this route.

The Court ruling found that "neither the Regulations nor Burolis[6] can supersede or restrain the OLA [*Official Languages Act*] or the Charter [*Canadian Charter of Rights and Freedoms*], but must always be interpreted and applied in a manner consistent with the general objectives of the preamble of the OLA and a recognition of the fundamental values of the Charter and Canadian policy in the matter of bilingualism."[7] In other words, the Court found that "the Regulations only set minimum standards with respect to the provision of bilingual services"[8] and that nothing prevents federal institutions from going beyond the obligations set out in the *Regulations*.

4. The Commissioner examined a sample of job postings that would be expected to have a linguistic profile of CBC/CBC, given the group and level of the position.
5. *Temple v VIA Rail Canada Inc.*, 2009 FC 858, [2010] 4 F.C.R. 80.
6. Burolis is the federal government's database that contains a list of all offices subject to the *Official Languages (Communications with and Services to the Public) Regulations*.
7. *Temple v VIA Rail Canada Inc.*, 2009 FC 858, [2010] 4 F.C.R. 80, at para. 100.
8. *Temple v VIA Rail Canada Inc.*, 2009 FC 858, [2010] 4 F.C.R. 80, at para. 106.

To help federal institutions be objective and consistent when establishing the linguistic profiles of bilingual positions, the Treasury Board of Canada Secretariat developed a tool called *Determining the linguistic profile of bilingual positions: The ABCs of linguistic profiles at your fingertips*. The Commissioner believes the tool to be useful. However, using the tool does not relieve managers of their responsibility to be objective in determining the language requirements of a particular position. In order for the tool to produce an accurate linguistic profile, the information entered into it must be consistent with the information in the position's work description and classification rationale.

NEXT STEPS

Too many federal institutions are establishing the linguistic profile of supervisory positions at the BBB/BBB level. The Commissioner feels that this level is not sufficient for supervisors to be able to create a bilingual work environment, since they cannot use both official languages to provide effective feedback to their staff, to thoroughly assess their employees' performance or to deal with sensitive issues tactfully.

Unfortunately, the President of the Treasury Board failed to act on the Commissioner's recommendation to establish, by November 30, 2012, "CBC/CBC as the minimum level of language skills required to supervise employees in regions designated as bilingual for language-of-work purposes."[9]

The Commissioner continues to reiterate that implementing this recommendation in federal institutions is an essential condition for creating a truly bilingual work environment.

9. Office of the Commissioner of Official Languages, *Annual report 2010–2011: Leadership, action, results*, Ottawa, 2011, p. 49. On-line version (www.officiallanguages.gc.ca/html/ar_ra_2010_11_p9_e.php) accessed March 31, 2013.

2.4 Air Canada and language of work

ISSUE

Under the *Air Canada Public Participation Act*, Air Canada is required to comply with all parts of the *Official Languages Act*. Therefore, Part V of the *Official Languages Act*, which concerns language of work, grants important language rights to Air Canada employees. Unfortunately, the national air carrier continues to struggle to meet its language-of-work obligations.

COMMISSIONER'S ACTIONS

Between 2006 and 2013, 482 complaints were filed with the Commissioner about actions taken by Air Canada with regard to language of work.

For example, in 2008, a number of Air Canada employees in the Montréal area filed a complaint about the new bilingual format of the annual recurrent training course. In December 2007, they had learned that their employer would no longer offer separate English and French versions of this important course, which had previously been provided in the official language of each participant's choice.

After his investigation, the Commissioner concluded that Air Canada had infringed the rights of the complainants by offering a so-called bilingual version of the training course that ended up being given primarily in English. The Commissioner recommended that Air Canada modify the course format to allow employees to take the full course in the official language of their choice.

In January 2010, an Air Canada employee who works in flight crew scheduling filed a complaint about the workplace environment not being conducive to the use of French. The Commissioner found that the language rights of French-speaking employees who worked in scheduling had indeed been infringed. For example, employees did not feel comfortable speaking French in meetings, and the computer system used by Air Canada for scheduling purposes had an interface that was only in English. The Commissioner made five recommendations—regarding supervision, training and work tools—to correct the situation.

In February 2011, the Commissioner received 437 complaints from employees working in Air Canada's Montréal maintenance division. The complainants, a number of whom were on loan to Aveos, a private company doing maintenance for Air Canada under a service agreement, stated that the air carrier had not respected their right to be trained and supervised in French, or to use French work tools.

The Commissioner determined that Part V of the Act applied to the situation described by the complainants, regardless of whether the employees had been working for the Air Canada maintenance division or had been on loan to Aveos at the time. As the Commissioner had established in a 2010 investigation, the employees on loan to Aveos were still Air Canada employees and still had language-of-work rights. All of the complaints were therefore found to be admissible, and an investigation was conducted.

During the course of the investigation, Air Canada asked the Commissioner to handle the complaints from the Air Canada employees on loan to Aveos separately, because it said that it had no power or control over Aveos's internal operations or policies. The Commissioner concluded, however, that Air Canada was ultimately responsible for ensuring that the language rights of all of its employees were respected, including the rights of employees on loan to a third party. He made 10 recommendations to help the air carrier correct its shortcomings, including making sure that employees' language rights are respected when providing both traditional and on-line training, as well as establishing a mechanism to ensure that official languages are systematically taken into consideration when acquiring new work instruments.

ASSESSMENT OF THE CURRENT SITUATION

Air Canada is still lagging when it comes to creating an environment that enables its employees to work in the official language of their choice. Although the Commissioner has made recommendations in both his 2008–2009 and 2009–2010 annual reports, the federal government has still not taken measures to ensure that employees of Jazz and Air Canada's other third-party contractors have language-of-work rights.

NEXT STEPS

For reasons similar to Air Canada's problems in fully complying with Part IV of the Act (communications with and services to the public),[10] Parliament urgently needs to clarify the language-of-work obligations of Air Canada's various third-party contractors, including Jazz. It is time to fill the legal void that has persisted for years and that has resulted in the erosion of employees' language-of-work rights within these organizations.

10. For more information on Air Canada's compliance with Part IV of the *Official Languages Act*, please see module 1.5, page 14.

2.5 Part V complaints: 2006–2013

Between 2006 and 2013, the Commissioner received 1072 complaints under Part V (language of work) of the *Official Languages Act*. This represents 20% of all admissible complaints filed with the Commissioner during the past seven years.

The number of Part V complaints has generally decreased since 2006, with one notable exception in 2010–2011. That year, Part V complaints reached a major peak (512). The majority of these (437) were filed against Air Canada in Montréal. The 512 complaints received in 2010–2011 account for half (48%) of all Part V complaints filed with the Commissioner from 2006 to 2013.

Even without the 437 complaints in 2010–2011, Air Canada would still be third on the list of institutions with the most Part V complaints filed against them over the past seven years.

National Defence (85), Public Works and Government Services Canada (62), Canada Post (41) and Service Canada (34) also generated a considerable number of complaints under Part V. However, the number of complaints against Canada Post and Service Canada have declined since 2007–2008.

The use of English and French in internal communications and in training or professional development activities accounted for most of the Part V complaints between 2006 and 2013. However, the number of complaints made in each of these categories has declined by approximately 70% since 2007–2008.

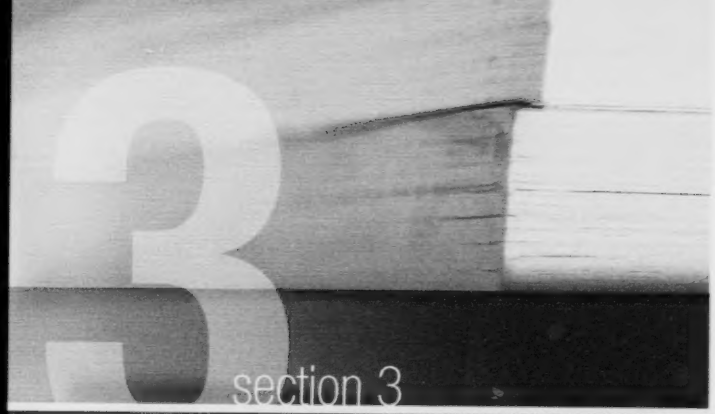
In 2010–2011, 437 Part V complaints were filed against Air Canada about issues such as supervision, training and work tools.

The number of complaints about employees being able to use the official language of their choice in written communications has been on the rise in recent years—in fact, it has more than tripled over the past two years.

The overall number of complaints filed under Part V of the Act is low relative to the other parts of the Act, but this can be explained by the fact that federal employees, like all workers, are often reluctant to file a complaint about their working conditions, their colleagues or their supervisors. However, the relatively low number of Part V complaints should not obscure the fact that there are widespread language-of-work problems within some federal institutions, as indicated by numerous studies and report cards produced by the Office of the Commissioner.

TABLE 1
FEDERAL INSTITUTIONS WITH THE MOST COMPLAINTS UNDER PART V OF THE *OFFICIAL LANGUAGES ACT* (2006–2013)

FEDERAL INSTITUTION	NUMBER OF COMPLAINTS
Air Canada	482
National Defence	85
Public Works and Government Services Canada	62
Canada Post	41
Service Canada	34
Health Canada	31
Correctional Service of Canada	27
Canada Border Services Agency	24
Royal Canadian Mounted Police	24
Human Resources and Skills Development Canada	23



section 3

MODULE 3.1
FRENCH-SPEAKING MINORITY COMMUNITIES AND IMMIGRATION: FUTURE AT STAKE 44

MODULE 3.2
THE ROADMAP: A CRITICAL TOOL 46

MODULE 3.3
VITALITY STUDIES FOR OFFICIAL LANGUAGE COMMUNITIES 49

MODULE 3.4
RECOGNIZING QUEBEC'S ENGLISH-SPEAKING COMMUNITIES 51

MODULE 3.5
BUDGET CUT CASUALTIES 53

MODULE 3.6
CBC/RADIO-CANADA'S LANGUAGE OBLIGATIONS 56

MODULE 3.7
ELIMINATION OF THE MANDATORY LONG-FORM CENSUS QUESTIONNAIRE: A DISAPPOINTING STEP BACKWARDS 58

MODULE 3.8
ACCESS TO JUSTICE IN BOTH OFFICIAL LANGUAGES 60

MODULE 3.9
PART VII COMPLAINTS: 2006–2013 62

Is my official language community growing and thriving?

The federal government supports official language communities through various initiatives, including the *Roadmap for Canada's Official Languages 2013-2018: Education, Immigration, Communities*, and through positive measures taken by federal institutions. These initiatives have enabled a number of English-speaking and French-speaking communities to gain momentum over the years, giving them reason to be optimistic about the future.

Experience shows, however, that this momentum is fragile and relatively easy to lose. For example, CBC/Radio-Canada's cuts to French-language radio station CBEF Windsor have clearly affected both the culture and identity of southwestern Ontario's French-speaking community. In addition, the elimination of the mandatory long-form census questionnaire will make it more difficult for federal institutions to get a complete picture of how official language communities are progressing. This, in turn, will make it harder for institutions to take measures that are tailored to the communities' actual needs.

It is important for the Government of Canada and its federal institutions to measure the impact on official language communities before making any decisions. Anything that violates the letter or the spirit of the *Official Languages Act* can have profound consequences.

As the federal government and its institutions make major cuts to address a difficult financial situation, they must bear in mind that it often takes a long time and many positive measures for official language communities to recover from the effects of these kinds of cuts.

3.1 French-speaking minority communities and immigration: Future at stake

ISSUE

Immigration is the way of the future when it comes to ensuring the vitality of French-speaking communities outside of Quebec, especially at a time when the numbers in some communities are dwindling due to an aging population and an exodus of their youth. However, attracting newcomers is only the first of many challenges that these communities must overcome. Others include helping newcomers to integrate and participate in local community life.

Advances in this area have been made possible by a number of government measures and partnerships. For example, the Citizenship and Immigration Canada – Francophone Minority Communities Steering Committee has published a strategic framework and strategic plan to foster immigration to French-speaking communities.

COMMISSIONER'S ACTIONS

During the past seven years, the Commissioner has taken a great interest in the role that immigration plays in increasing the size and strengthening the identity of official language communities. The studies that he published in 2007 and 2010 on vitality indicators for Francophone minority communities showed that immigration continues to be a priority.

Over the years, the Commissioner has met with many newcomers to Canada, as well as representatives of institutions and organizations that are active in the immigration sector. Each time, he has emphasized that the success of immigration projects in official language communities depends on leadership, partnerships and attention to each community's particular situation. He has also reiterated that these communities require sufficient resources to welcome newcomers and help them integrate into the community, and that the federal government's support in this area is crucial.

The issue of immigration to French-speaking communities outside of Quebec is so important that the Commissioner has made it one of his strategic priorities for the next three years.

ASSESSMENT OF THE CURRENT SITUATION

In the past year, the federal government has made some decisions that are a cause for concern for the Commissioner, such as Citizenship and Immigration Canada's decision to close regional offices and reduce the budget of the Destination Canada – Job Fair program. These decisions may make it more difficult for French-speaking communities to leverage immigration. The Commissioner is currently investigating the decision to reduce the budget of the Destination Canada program.

The Government of Canada is also proposing an immigration policy that focuses more on economic development. In adopting this approach, the federal government must ensure, however, that its immigration policy takes the specific needs of French-speaking communities into account.

On March 28, 2013, the government released its *Roadmap for Canada's Official Languages 2013-2018: Education, Immigration, Communities*. The most significant increase in funding in the 2013–2018 Roadmap is earmarked for immigration. While maintaining the funds for Francophone immigration to French-speaking minority communities, the federal government announced that this roadmap contained a $120 million initiative for language training programs for economic immigrants. Although proficiency in the second official language is often considered to be one of the key elements in integrating newcomers into the labour market, the 2013–2018 Roadmap does not specify how and to what degree official language

communities will benefit from this new investment. Nor does it explain how the initiative will support Francophone minority communities in meeting their targets for attracting and retaining French-speaking newcomers.

NEXT STEPS

The *Strategic Plan to Foster Immigration to Francophone Minority Communities*, developed by Citizenship and Immigration Canada and its government and community partners, expired at the end of March 2013. The 2013–2018 Roadmap does not specify the government's intentions regarding this plan, but the Commissioner expects that, with the renewal of the plan or other similar initiatives, the Department and its partners will continue to support the efforts and objectives of French-speaking communities outside of Quebec to attract and integrate newcomers. This will contribute to the vitality and development of these communities.

ANGLOPHONE IMMIGRATION

An important issue for organizations representing English-speaking Quebecers is the renewal of English-speaking minority communities and institutions. Citizenship and Immigration Canada has recently funded studies on the ability of Quebec's English-speaking communities to attract immigrants. The *Roadmap for Canada's Official Languages 2013-2018: Education, Immigration, Communities* does not include any initiatives to promote Anglophone community renewal. However, the Department should examine how it could help Quebec's Anglophone communities access the resources they need to help English-speaking newcomers integrate into Quebec society.

3.2 The Roadmap: A critical tool

ISSUE

Over the past five years, the $1.1 billion *Roadmap for Canada's Linguistic Duality 2008-2013: Acting for the Future* has been the federal government's primary tool in supporting official languages. As the successor to the *Action Plan for Official Languages 2003-2008*, the 2008–2013 Roadmap resulted in significant progress in a variety of areas, such as health care, justice, the economic development of official language communities, immigration in French-speaking minority communities and the promotion of linguistic duality.

March 31, 2013, marked the end of the 2008–2013 Roadmap.

COMMISSIONER'S ACTIONS

Not long after his appointment in 2006, the Commissioner addressed the federal *Action Plan for Official Languages 2003-2008*. In his 2006–2007 annual report, he recommended that the government follow up on the 2003–2008 Action Plan and expand its scope to include arts and culture, youth initiatives and new measures for promoting linguistic duality. The 2008–2013 Roadmap was in line with this recommendation.

The Commissioner also closely monitored the implementation of the 2008–2013 Roadmap. As he mentioned in his annual reports and during appearances before parliamentary committees, there were issues with the initial implementation of the 2008–2013 Roadmap. In particular, the funding promised by the federal government was slow to materialize in some sectors, which negatively affected the start of important projects. These difficulties led the Commissioner to recommend, in his 2008–2009 annual report, that the Minister of Canadian Heritage and Official Languages implement the commitments announced in the 2008–2013 Roadmap as soon as possible.

Unfortunately, many federal institutions acted as though the 2008–2013 Roadmap was the government's sole initiative in response to all official languages issues in Canada. However, this horizontal initiative only targeted 15 institutions, while the obligations under the *Official Languages Act* apply to all of them. The Commissioner has repeatedly called on all federal institutions to take positive measures to enhance the vitality of official language communities and promote linguistic duality.

In 2012–2013, in response to complaints, the Commissioner conducted an investigation to determine whether the federal government, more specifically Canadian Heritage, took appropriate measures in accordance with section 43 of the Act to hold public consultations on the future of the 2008–2013 Roadmap. The investigation also aimed to evaluate whether the work carried out by the House of Commons Standing Committee on Official Languages—specifically, its study on the *Evaluation of the Roadmap: Improving Programs and Service Delivery*—could take the place of public consultations.

The investigation revealed that the Committee's study did not include an objective equivalent to obtaining information through public consultations, nor was the Committee's study mandated by the federal government. Canadian Heritage could therefore not consider this study to be a public consultation under section 43 of the Act.

During his appearance before the House of Commons Standing Committee on Official Languages, the Commissioner encouraged the

federal government to implement a new five-year plan to support official languages, in order to "protect our assets and initiatives that are already underway in the 2008–2013 Roadmap."[1]

In early 2013, the Commissioner wrote to the Minister of Canadian Heritage and Official Languages to inform him of his expectations regarding this issue. He emphasized how important it was for the federal government to renew all sectors of development and to demonstrate leadership and a clear commitment. He also stressed the importance of avoiding delays in implementing the next plan, so as not to create a negative impact on the development of official language communities and the promotion of linguistic duality.

"The social objectives that form the base of the [2008-2013] Roadmap call for long-term investments. Like the communities, I think the government needs to take steps that will strongly entrench linguistic duality as a Canadian value. For example, it should place more emphasis on ways of giving citizens opportunities to improve their second language skills, like exchange programs and language training programs in both languages for newcomers and their children."[2]

- Graham Fraser, Commissioner of Official Languages

ASSESSMENT OF THE CURRENT SITUATION

On March 28, 2013, the federal government released its *Roadmap for Canada's Official Languages 2013-2018: Education, Immigration, Communities*. The 2013–2018 Roadmap includes a total investment of $1.124 billion over five years, which represents about 1.3% increase from the previous roadmap. It is important to note, however, that this net increase is not indexed.

In these times of fiscal restraint, it is encouraging that most of the initiatives have retained similar funding envelopes. However, even though the key sectors of health, immigration and economic development are included in the 2013–2018 Roadmap, it is unfortunate that some initiatives have been eliminated, such as the Canada School of Public Service's project to increase Canadian universities' access to official languages learning tools, and Public Works and Government Services Canada's language industry initiatives.

There are still some issues and questions regarding immigration, education and the vertical and horizontal coordination role played by Canadian Heritage and the Treasury Board of Canada Secretariat.

The most significant increase in funding in the 2013–2018 Roadmap is earmarked for immigration. The federal government announced that this roadmap contained a $120 million initiative for language training programs for economic immigrants. However, the 2013–2018 Roadmap does not specify how and to what degree official language communities will benefit from this new investment.

1. Commissioner of Official Languages, *Evaluation of the* Roadmap for Canada's Linguistic Duality 2008-2013: Acting for the Future, Notes for an appearance before the House of Commons Standing Committee on Official Languages, Ottawa, March 15, 2012. On-line version (www.officiallanguages.gc.ca/html/speech_discours_15032012_e.php) accessed March 31, 2013.
2. Commissioner of Official Languages, *Evaluation of the* Roadmap for Canada's Linguistic Duality 2008-2013.

The Commissioner is disappointed with the $35 million reduction in funds for education in official language communities and second-language instruction. How will provincial and territorial partners improve the quality of education for official language communities and second-language learning if they have fewer resources? The reduction is even more disappointing given that the Commissioner has repeatedly emphasized the importance of increasing second-language learning opportunities for young Canadians by increasing the number of language exchanges and post-secondary programs. It has been a long time since linguistic duality has inspired a sense of national pride as it did during Expo '67. This is why we need to spark people's interest and create new learning opportunities.

The Commissioner is very concerned about the fact that the 2013–2018 Roadmap no longer includes any funding for the coordination functions performed by the Treasury Board of Canada Secretariat (Parts IV, V and VI of the Act) and Canadian Heritage (Part VII of the Act). These two institutions have a role to play in coordinating federal institutions' official languages activities. Eliminating this funding from the 2013–2018 Roadmap sends the message that the work is not important or that it must be done without resources. Consequently, the entire structure supporting federal institutions' official languages activities has been compromised.

NEXT STEPS

The various initiatives announced in the 2013–2018 Roadmap will be implemented starting in the 2014–2015 fiscal year. Apart from the initial announcement, the government did not specify all the terms of implementation or possible adjustments. Hopefully the federal government will listen to Canadians regarding the importance of official languages and future priorities. The federal government must ensure that its institutions fully consider the diverse realities of English-speaking communities in Quebec and French-speaking communities in the rest of Canada when implementing the 2013–2018 Roadmap.

The Commissioner will be monitoring the implementation of the Act and the federal government's leadership role. Federal administrative infrastructure for official languages is a critical element, if not *the* critical element, in achieving this.

Vitality studies for official language communities 3.3

ISSUE

Under Part VII of the *Official Languages Act*, regarding the advancement of English and French, federal institutions are required to take positive measures to enhance the vitality of official language communities. However, many federal institutions are still struggling with the concept of vitality. Once they understand this concept, they will be able to support the development of these communities effectively.

COMMISSIONER'S ACTIONS

In 2006, the Commissioner's predecessor published a study describing the current state of research on the vitality of official language communities.

In 2006 and 2007, the Commissioner continued in this vein by examining vitality indicators for official language communities. The Office of the Commissioner conducted a multi-year action-research project to help these communities better identify factors influencing their vitality and evaluate that vitality using tools adapted to their reality. This research also sought to support the communities' efforts to raise federal institutions' awareness of the challenges they face.

The Commissioner published three studies on vitality between 2007 and 2010. These studies, conducted in various regions of Canada, involved French-speaking communities in British Columbia, Alberta, Saskatchewan, Manitoba, Ontario and Nova Scotia, as well as English-speaking communities in Quebec. The research prompted the Commissioner to speak to with the media and different levels of government.

ASSESSMENT OF THE CURRENT SITUATION

The vitality studies made it possible to mobilize and coordinate various partners and official language communities around shared issues and priorities. In Sudbury, Ontario, for example, the Commissioner's initiative resulted in the organization of the first États généraux de la francophonie du Grand Sudbury and the creation of sector committees. In Calgary, Alberta, the studies led to discussions on issues that were specific to the region. In Saskatchewan, they helped the province's French-speaking community launch a regional project promoting its history, customs and products.

The Commissioner's studies showed that the vitality of an official language community does not depend solely on its size, but rather on a number of factors that vary from one region to the next.

It has been three years since the last of the studies was published, and the Commissioner has noted that the government is still not doing enough to support the vitality of official language communities. Many federal institutions are still trying to figure out their role in implementing Part VII of the Act.

NEXT STEPS

To strengthen the vitality of official language communities, federal institutions need to be more involved with the communities. Communities need to be supported in developing their capacity for evaluation and research. It is therefore important for federal institutions and community organizations to coordinate with each other and work together. The federal government must also continue to support research on the development of official language communities and help to gather and share new information on vitality.

EX COMMUNITY FORUM

In February 2010, the Commissioner of Official Languages attended the EX Community Forum organized by the Nova Scotia Federal Council for federal public service managers at the EX (executive) level. He spoke to the 50 managers in attendance about linguistic duality and its importance as both a Canadian value and a federal public service value. The Commissioner emphasized how crucial it is for managers to be effective leaders when it comes to official languages. He also reiterated that federal institutions need to support the development of official language minority communities.

Recognizing Quebec's English-speaking communities 3.4

ISSUE

Scattered throughout the province, Quebec's English-speaking communities are a unique linguistic and cultural asset, and have contributed greatly to shaping modern Quebec. Increasingly bilingual, these communities deserve to be seen in a positive light and to be recognized by the government and people of Quebec. However, any gains made by the English-speaking communities are too often seen as losses for the French language.

COMMISSIONER'S ACTIONS

Between 2006 and 2013, the Commissioner was able to strengthen ties with representatives of English-speaking community organizations as well as with the Quebec government and media.

Over the past few years, the Commissioner has suggested that the Government of Quebec appoint a minister responsible for Anglophone communities, the equivalent of the minister of Francophone affairs in most Canadian provinces. In the fall of 2012, Premier Pauline Marois assigned responsibility for dialogue with Quebec's English-speaking communities to Jean-François Lisée, Minister of International Relations, La Francophonie and External Trade, and Minister responsible for the Montréal region.

In February 2013, the Commissioner met with Minister Lisée and Diane De Courcy, Minister of Immigration and Cultural Communities and Minister responsible for the *Charter of the French Language*, to discuss the unique situation of English-speaking communities and the potential impact on these communities of Bill 14, *An Act to amend the* Charter of the French Language, *the* Charter of Human Rights and Freedoms *and other legislative provisions*.

The Commissioner has shared his expertise on many different occasions in Quebec. For instance, he has been involved in various university symposiums and events, and in 2012, he organized a forum in Montréal on cultural diversity and linguistic duality. In addition, he worked with the organizing committees for Québec City's 400th anniversary celebrations in 2008 and for the 2013 Canada Games in Sherbrooke.

The Commissioner has been involved in a number of issues related to the development of Quebec's English-speaking communities and the strengthening of their ties with the French-speaking majority. Among other things, he conducted a study on community vitality and investigated the 194 complaints received between 2006 and 2013 concerning the federal government's respect for the language rights of English-speaking Quebecers.

Many of the Commissioner's actions aimed to foster a better understanding of the linguistic realities in modern Quebec. He met with Quebecers of all backgrounds from all regions of the province. He emphasized the fact that English-speaking communities are an integral part of Quebec and encouraged the province's government to recognize them as such. He also encouraged federal institutions to work with Quebec's English-speaking communities, because they represent the other official language minority community in Canada.

Since its creation in 2009, the Commissioner's annual Award of Excellence – Promotion of Linguistic Duality has been presented to two Quebecers, Linda Leith, founder of the Blue Metropolis Foundation, and veteran journalist and broadcaster Bernard St-Laurent, in recognition of their work to build bridges between the two cultures.

The Commissioner regularly participates in the public conversation on the relationship between English- and French-speaking Quebecers. In a number of interviews in 2012, for example, he reiterated quite emphatically that Quebec's new government was wrong to describe English as a "foreign language."[3]

THE RIGHT TO ENGLISH-LANGUAGE EDUCATION IN QUEBEC

In 2009, the Commissioner of Official Languages intervened before the Supreme Court of Canada in *Nguyen v Quebec (Education, Recreation and Sports)*, which involved the constitutionality of the limits imposed by section 73 of Quebec's *Charter of the French Language* regarding eligibility for education in the minority language in Quebec. The Commissioner intervened to ensure that the eligibility criteria adopted by the provinces are consistent with the purpose and remedial nature of section 23 of the *Canadian Charter of Rights and Freedoms*. This would mean that the children whose rights are meant to be protected under the Canadian Charter will actually be admitted to minority-language schools. This issue is critically important for the Commissioner. The preservation and development of Canada's official language minority communities are at the heart of section 23 of the Canadian Charter. In a unanimous decision, the Supreme Court concluded that section 23 of the Canadian Charter must be interpreted in light of its constitutional objective.

ASSESSMENT OF THE CURRENT SITUATION

Since its election, the Parti Québécois Government has been increasingly vocal in its concern about the threat to the French language in Quebec. This vulnerability is real. In the areas of research, international trade and major events, the dominance of English often leaves little room for French. However, as the Commissioner regularly points out, there is a fundamental difference between the increasingly dominant role that English is playing on the international stage and English as the language spoken by Quebec's English community.

NEXT STEPS

There is still a lot of work to be done to improve relations between Quebec's English-speaking communities and the provincial government and its public service. Elected officials and federal employees need to understand that, while the English language is not threatened in Quebec, English-speaking communities are. Much also remains to be done to help the province's English-speaking communities begin to feel like a truly integral and important part of Quebec society. As the Commissioner has often repeated, it is up to the federal government and its institutions to make official languages a priority and show leadership in this regard.

THE 2008–2013 ROADMAP AND ENGLISH-SPEAKING COMMUNITIES

The Commissioner of Official Languages has previously spoken about the special challenge that the *Roadmap for Linguistic Duality in Canada 2008–2013: Acting for the Future* poses for the English-speaking communities of Quebec. "In some cases, Roadmap initiatives have been launched in response to the specific realities of French-speaking minority communities. The government and the departments then tried as best they could to adapt these initiatives to the needs of Anglophone communities, something with which they do not necessarily have much experience. It is important that, right from the outset, initiatives reflect the specific realities of a community and meet real needs. There must then be a sustained dialogue as the initiative is implemented and, if necessary, tailored to their circumstances."[4]

3. Refers to Quebec Education Minister Marie Malavoy's comment in October 2012 that her party was very critical towards the idea of introducing a foreign language while children are beginning to master concepts, grammar, syntax and vocabulary in their mother tongue.

4. Commissioner of Official Languages, *Evaluation of the* Roadmap for Canada's Linguistic Duality 2008–2013.

Budget cut casualties 3.5

ISSUE

Between 2006 and 2013, the Canadian government conducted two major expenditure reviews that prompted federal institutions to change or eliminate some of their activities and programs. A number of these decisions have had—or could still have—a negative cumulative impact on the vitality of official language communities.

COMMISSIONER'S ACTIONS

The federal government's 2006 expenditure review led to budget cuts and changes that affected a variety of federal programs and offices. The Court Challenges Program of Canada, which provided financial assistance to applicants for important court cases that advanced language and equality rights guaranteed under the Canadian Constitution, was eliminated. Cuts were also made to programs whose impact on official languages was not immediately evident, but gradually became apparent. These programs included the Policy Research Fund for research on women's issues; the Canada Volunteerism Initiative; the Adult Learning, Literacy and Essential Skills Program; youth employment programs; the Public Diplomacy Program; the Museums Assistance Program; Canadian foreign missions; and the Canadian Policy Research Networks.

The Commissioner received 118 complaints from Canadians and organizations concerned about the impact of these decisions on the vitality of official language communities.

After closely examining the nine government expenditure review decisions related to the complaints, the Commissioner determined that the complaints were founded. In his investigation report, the Commissioner concluded that, although the impact of these decisions on official language communities varied, the needs and interests of these communities had not been given due consideration in the decision-making process.

The Commissioner recommended that a series of corrective measures be adopted. He began by recommending that Canadian Heritage and the Treasury Board of Canada Secretariat conduct a thorough assessment of the impact of the decisions made in the context of the 2006 review, with priority assigned to the decision to eliminate the Court Challenges Program of Canada. The Commissioner also recommended that steps be taken to ensure that future expenditure reviews fully comply with Part VII of the *Official Languages Act*, which concerns the advancement of English and French.

In the same vein, the Commissioner recommended in his 2007–2008 annual report that the Secretary of the Treasury Board take the necessary steps to ensure that expenditure and similar reviews within the federal government are designed and conducted in full compliance with the commitments, duties and roles prescribed in Part VII of the Act.

During the past seven years, the Commissioner has also examined other direct and indirect consequences of the federal government's 2006 budget cuts. For example:

- he conducted an investigation and sought a court remedy regarding cuts to French-language CBC/Radio-Canada radio station CBEF Windsor;[5]
- he investigated the process that led to the elimination of the mandatory long-form census questionnaire in 2011, as well as the impacts of this decision;[6]
- he expressed concern that significant cuts had been made to the Treasury Board of Canada Secretariat group responsible for coordinating official languages programs in the public service, without strengthening the official languages units within the federal institutions themselves; and

5. For more information on the CBC/Radio-Canada cuts to CBEF Windsor, please see module 3.6, page 56.

6. For more information on the elimination of the long-form census questionnaire, please see module 3.7, page 58.

- he criticized the Department of Foreign Affairs and International Trade's cancellation of the Francophonie Promotion Fund.

In 2012, the government announced a new round of budget cuts totalling more than $5 billion over three years. Soon after this announcement, the Commissioner received complaints about the potential impact on official language communities of eliminating certain programs, reducing the scope of certain initiatives and closing certain offices. The Commissioner has undertaken a series of investigations to determine whether the federal institutions named in the complaints took into account the needs of the communities and the possible impact of their decisions on community vitality.

ASSESSMENT OF THE CURRENT SITUATION

The government's 2006 and 2012 budget cuts have resulted in federal institutions' making decisions that have had or may have a direct or indirect impact on the Canadian public.

Because some of these decisions seemed likely to have an immediate and considerable impact on the vitality of official language communities and on Canada's linguistic duality, they soon provoked a strong public reaction. For example, the elimination of the Court Challenges Program of Canada and the mandatory long-form census questionnaire sparked a public outcry both within and outside of official language communities. However, most of the decisions likely to affect these communities and linguistic duality received much less attention. There are two major reasons for this.

First, some of these decisions involved changes whose impact was somewhat less evident. For example, the 2012 cuts did not result in the elimination of the Destination Canada – Job Fair program, which promotes Canada as a preferred destination for Francophones from overseas. But funding was withdrawn for community groups to participate in the Job Fair to reach French-speaking immigrants from around the world and attract them to their communities.

Second, when taken individually, the cuts do not seem to call into question the government's commitment to linguistic duality. However, their cumulative effect has the potential to erode linguistic duality and the public service's capacity to promote both official languages.

THE COURT CHALLENGES PROGRAM OF CANADA CASE

The federal government challenged the Commissioner of Official Languages' conclusions regarding the elimination of the Court Challenges Program of Canada. In 2008, the case was brought before the Federal Court by the Fédération des communautés francophones et acadienne du Canada, with the Commissioner's support as intervener.

In June 2008, the federal government and the Fédération des communautés francophones et acadienne du Canada reached an out-of-court settlement. The Fédération agreed to drop the case in exchange for the government's creating a replacement for the former Court Challenges Program of Canada. The Language Rights Support Program was launched in December 2009. It is administered by the University of Ottawa through a joint partnership between its Faculty of Law and its Official Languages and Bilingualism Institute.

The 2006 and 2012 cutbacks ultimately led to decisions such as the following:

- Elimination of certain official languages coordinator positions in the regions, or combining them with human resources positions for which official languages is only one of the responsibilities
- Creation of interregional or interprovincial virtual teams, which could affect employees who wish to exercise their right to work in the official language of their choice
- High turnover rate within the Network of Official Languages Champions because of major restructuring in the public service
- Elimination of funding, under the *Roadmap for Canada's Official Languages 2013-2018: Education, Immigration, Communities*, for the coordinators of federal institutions' policies and programs relating to the Act (Treasury Board of Canada Secretariat for Parts IV, V and VI, and Canadian Heritage for Part VII)

NEXT STEPS

Cutting or changing programs in reaction to expenditure reviews can have adverse effects on official languages. Only by conducting a thorough analysis of each program can decision makers prevent their decisions from having a negative impact.

The key lesson of the Court Challenges Program of Canada case is that, when making decisions such as adopting, reviewing or eliminating a policy or program, the government must consider the needs of official language communities, as well as the impact of these decisions on their vitality. This means that each federal institution should ensure that:

- Part VII of the Act is systematically incorporated into its policy and program development culture;
- official language communities are involved in its program-review process;
- it has a thorough understanding of the needs and particular interests of official language communities;
- courses of action or solutions are identified when its decisions may affect communities' vitality;
- an ongoing process is developed to assess and enhance existing Part VII policies and programs; and
- it respects the right of employees to work in the official language of their choice in regions designated as bilingual for language-of-work purposes.

Through his reviews and investigations, the Commissioner also found that, for linguistic duality to emerge unscathed from the kind of exercises the federal government conducted in 2006 and 2012, the government needs to be a better leader with regard to official languages.

This means that the government must make it clear to federal institutions that enhancing the vitality of official language communities and promoting linguistic duality is not just another obligation to fulfill or a goal to pursue only when time and resources allow. The government needs to remind its institutions that linguistic duality is a core Canadian value. It needs to instill in them the reflex to defend and promote both of Canada's official languages, regardless of the political or financial climate.

The Commissioner will continue to monitor issues related to budget cuts very closely over the next three years. He has initiated an audit to look into the Treasury Board of Canada Secretariat's role in the Deficit Reduction Action Plan exercise (Parts VII and VIII of the Act).

The Commissioner also plans to conduct a horizontal audit to study the impact of the new government services management models adopted by certain federal institutions. The models, which aim to improve organizational efficiency, appear to contain nothing objectionable in and of themselves. However, they must not have a negative impact on institutions' capacity to serve Canadians in the official language of their choice or to create a truly bilingual work environment.

3.6 CBC/Radio-Canada's language obligations

ISSUE

According to CBC/Radio-Canada, a Crown corporation subject to the *Official Languages Act*, official languages issues related to its programming activities and decisions fall under the exclusive jurisdiction of the Canadian Radio-television and Telecommunications Commission. The public broadcaster claims that only its non-programming activities are subject to the Act and, therefore, the authority of the Commissioner of Official Languages.

The Commissioner maintains that he has the authority to investigate how CBC/Radio-Canada applies Part VII of the Act (advancement of English and French) in its decisions and activities, including those related to programming, in certain cases.

These conflicting views came to light in the matter of CBC/Radio-Canada's budget cuts to CBEF, its French-language radio station in Windsor, Ontario.

COMMISSIONER'S ACTIONS

In 2009–2010, the Commissioner received 876 complaints about CBC/Radio-Canada's decision to make significant budget cuts to CBEF Windsor. According to the complainants, the broadcaster's decision resulted in nearly all the station's local content being replaced with content produced in Toronto, Ontario.

Following his investigation into these complaints, the Commissioner concluded that CBC/Radio-Canada had not met the language obligations to which it is subject under Part VII of the Act. Specifically, the broadcaster had not taken into account the impact of its decision on the development and vitality of the French-speaking community in southwestern Ontario, nor had it tried to mitigate the repercussions.

During this investigation, CBC/Radio-Canada maintained that, because the complaints related to its programming decisions, the Commissioner did not have the authority to investigate them under Part VII.

Faced with CBC/Radio-Canada's refusal to recognize his authority and implement his recommendations from the investigation report, the Commissioner decided to seek a court remedy against the broadcaster before the Federal Court. He asked the court to recognize his authority to investigate complaints against CBC/Radio-Canada and clarify the public broadcaster's obligations under Part VII of the Act. Representing Windsor's Francophone community, SOS-CBEF vice-president Karim Amellal was the co-applicant in the proceedings.

In May 2012, the Federal Court issued an interlocutory decision to the effect that the Commissioner has the authority to investigate how CBC/Radio-Canada applies Part VII of the Act in its decisions, including those related to programming. It rejected the broadcaster's position that the Canadian Radio-television and Telecommunications Commission has exclusive authority over its programming decisions.

The Federal Court also ruled, however, that it would be appropriate to wait for the Canadian Radio-television and Telecommunications Commission to evaluate the licence renewal applications submitted by CBC/Radio-Canada. The Court expected the regulatory body to consider the impact of the broadcaster's decisions on the vitality and development of official language communities affected by these renewal applications.

In November 2012, the Commissioner intervened before the Canadian Radio-television and Telecommunications Commission at the licence renewal hearings for CBC/Radio-Canada's English-language and French-language services. He asked the Commission "to require Radio-Canada to maintain a minimum number of hours of local production at CBEF [Windsor] as a condition of licence. This is necessary to prevent the erosion of this official language community's vitality. It is also to ensure Radio-Canada respects its mandate."[7]

ASSESSMENT OF THE CURRENT SITUATION

On May 28, 2013, the Canadian Radio-television and Telecommunications Commission handed down its decision on CBC/Radio-Canada's application to renew its broadcasting licence. Among other things, it imposed a condition of licence that CBEF Windsor provide a minimum of 15 hours of local programming per week. Although this decision is a positive step for Windsor's French-speaking community, there are issues of public interest still pending before the Federal Court. The Commissioner will therefore be asking the Court to issue a definitive ruling on CBC/Radio-Canada's language obligations under Part VII of the Act, especially when its decisions risk having a negative impact on official language communities. It is important that the Federal Court clarify CBC/Radio-Canada's responsibilities when it comes to official language communities.

NEXT STEPS

The level of public funding CBC/Radio-Canada receives is relatively low in comparison with other countries that have public broadcasters.[8] Nevertheless, regardless of the funding available, local programming is at the heart of CBC/Radio-Canada's mandate, and so the national broadcaster has a duty to comply with the letter and spirit of the Act, including Part VII.

7. Canadian Radio-television and Telecommunications Commission, *To consider the broadcasting applications for the licence renewals for the Canadian Broadcasting Corporation's French- and English-language services as listed in Broadcasting Notice of Consultation CRTC 2011-379, 2011-379-1, 2011-379-2, 2011-379-3, 2011-379-4 and 2011-379-5*, Transcript of Proceeding, volume 7, line 13114, November 27, 2012. On-line version (www.crtc.gc.ca/eng/transcripts/2012/tb1127.html) accessed March 31, 2013.

8. Nordicity Group Ltd., *Analysis of government support for public broadcasting and other culture in Canada*, prepared for CBC/Radio-Canada, April 2011, p. 4. On-line version (www.cbc.radio-canada.ca/_files/cbcrc/documents/latest-studies/deloitte-analysis-public-broadcasting-en.pdf) accessed March 31, 2013.

3.7 Elimination of the mandatory long-form census questionnaire: A disappointing step backwards

ISSUE

In June 2010, the Minister of Industry announced that, as of the 2011 Census, the mandatory long-form questionnaire would be eliminated and a voluntary survey, the National Household Survey, would replace it. The research community, official language communities, several government institutions and other concerned parties reacted very strongly to the unexpected announcement. They were concerned about the quality and comparability of data collected from a voluntary survey rather than a mandatory questionnaire.

COMMISSIONER'S ACTIONS

Shortly after the June 2010 announcement, the Commissioner and various organizations representing official language communities throughout Canada reminded the government that it has obligations under the *Official Languages Act*. They stressed the importance of adding questions on language to the mandatory questionnaire in order to meet certain requirements under the Act. In August 2010, the federal government increased the number of language-related questions in the new mandatory short-form questionnaire from one to three. In addition to the original question on mother tongue, the new form would include questions on knowledge of official languages and language spoken at home.

In July 2010, the Commissioner launched an investigation in response to a number of complaints on the elimination of the mandatory long-form census questionnaire. In order not to exceed his mandate under the Act, the Commissioner had to limit the scope of his investigation to those federal institutions that were mentioned in the complaints—Industry Canada, Canadian Heritage, the Treasury Board of Canada Secretariat and Statistics Canada—and determine whether they had participated in the federal government's decision-making process.

In March 2011, the Commissioner concluded his investigation and announced that the federal institutions targeted by the complaints had not been part of the decision-making process leading up to the elimination of the mandatory long-form census questionnaire, which meant that they had not failed in their duties under the Act.

Nevertheless, in his investigation report, the Commissioner added that the federal government is responsible for the full implementation of Part VII of the Act (advancement of English and French) at all times. It must therefore assess the potential negative impact of its decisions and ensure that these decisions do not hinder the development or vitality of official language communities. Should this happen, the government must take measures to mitigate the impact.

ASSESSMENT OF THE CURRENT SITUATION

The Commissioner remains concerned about the possible repercussions of the government's decision to eliminate the mandatory long-form census questionnaire. When the 2011 Census results were released, Statistics Canada issued a notice about the risks of comparing specific language data from 2011 with previous census data. Because the placement and context of the language questions were different in the 2011 Census than in the 2006 long-form questionnaire, they were not answered in the same way: "Canadians appear to have been less inclined than in previous censuses to report languages other than English or French as their only mother tongue, and also more inclined to report multiple

languages as their mother tongue and as the language used most often at home."[9] However, this does not affect the comparability of the data on first official language spoken or on knowledge of official languages.

Because of a poor response rate of less than 50%, economic, social and cultural data for more than 1,100 census subdivisions was suppressed from the May 2013 release of the National Household Survey. Federal institutions may therefore not be getting the data they need in order to understand how official language communities are progressing and to evaluate the impact of measures taken to support their development or promote linguistic duality. The true scope of the changes and their impact on how the data is used remain to be seen.

NEXT STEPS

When it comes to official languages, like any other field, the federal government needs to design and implement policy development processes based on evidence and in-depth analysis. Given the limitations of the data from the 2011 Census and the 2011 National Household Survey, the question is whether governments, official language communities and individual Canadians will be able to make informed decisions. The Commissioner will therefore continue to closely monitor the distribution and use of data from the 2011 Census and National Household Survey, as well as the preparations for the 2016 Census.

"A wide range of federal institutions depend on information provided by the long-form census questionnaire to measure the results of their initiatives. How many French-speaking immigrants come to Canada? Where do they choose to live and how are they doing economically? Are the English-speaking communities of Quebec's Lower North Shore successful in moving beyond a struggling fisheries industry? The answer to these questions and many others might be more difficult to obtain if the newly established census format endures."[10]

- Graham Fraser, Commissioner of Official Languages

9. Statistics Canada, *2011 Census of Population: Linguistic Characteristics of Canadians*, Statistics Canada Catalogue no. 11-001-X, Ottawa, October 24, 2012, p. 4. On-line version (www.statcan.gc.ca/daily-quotidien/121024/dq121024a-eng.htm) accessed March 31, 2013.

10. Commissioner of Official Languages, *Statement to the media for the launch of volume II of the 2009–2010 annual report*, Ottawa, November 2, 2010. On-line version (www.officiallanguages.gc.ca/html/speech_discours_02112010_e.php) accessed March 31, 2013.

3.8 Access to justice in both official languages

ISSUE

All Canadians should have equal access to justice in the official language of their choice. The major challenge is ensuring that the some two million Canadians who are members of an official language community can fully exercise this fundamental right. If the public is to truly have access to provincial and territorial superior courts in English and French, the courts must have enough bilingual judges.

COMMISSIONER'S ACTIONS

In 2008, during his appearance before the House of Commons Standing Committee on Official Languages, the Commissioner encouraged the Minister of Justice to show leadership and work together with his provincial and territorial counterparts to explore solutions to ensure that superior courts are able to operate effectively in both official languages. The Commissioner suggested that the process for appointing judges to superior courts be reviewed. He also said that knowledge of both official languages should be a prerequisite for appointment as a Supreme Court of Canada Judge.

That same year, the Commissioner provided written submissions to the Standing Senate Committee on Legal and Constitutional Affairs, which was examining Bill C-31 to allow the appointment of 20 additional judges to the provincial superior courts. The Commissioner asked the Committee to recommend that the process for appointing superior court judges be reviewed to ensure that the courts have a sufficient number of bilingual judges.

In 2009, when the House of Commons Standing Committee on Justice and Human Rights was examining Bill C-232 to amend the *Supreme Court Act*, the Commissioner reiterated that bilingualism should be a prerequisite for the appointment of Supreme Court judges. "In order to respect all Canadians, it is important to ensure that they are all served by judges of the highest distinction and greatest ability, who can hear and understand a case in either official language."[11]

In 2011, the Commissioner completed an investigation into complaints about an insufficient number of bilingual judges being appointed to the superior courts of Ontario and Nova Scotia. In his investigation, the Commissioner noted a number of shortcomings in the judicial appointment process.

He therefore conducted a study in partnership with Ontario's French Language Services Commissioner and the Commissioner of Official Languages for New Brunswick. The study sought to find ways to improve the bilingual capacity of superior court judges and, consequently, to improve access to justice in both official languages. Published in the summer of 2013, *Access to Justice in Both Official Languages: Improving the Bilingual Capacity of the Superior Court Judiciary* focuses on two issues that the federal government is responsible for and that promote the institutional bilingualism of the superior court judiciary: the selection and appointment process for judges, and the language training provided to judges to help them improve their language skills.

11. Commissioner of Official Languages, *Notes for an appearance before the House of Commons Standing Committee on Justice and Human Rights*, Ottawa, June 17, 2009. On-line version (www.officiallanguages.gc.ca/html/speech_discours_17062009_e.php) accessed March 31, 2013.

ASSESSMENT OF THE CURRENT SITUATION

Along with many others since 1995, the Commissioner has been actively seeking to show the federal government how important it is to appoint a sufficient number of bilingual judges to the country's provincial and territorial superior courts. Despite the efforts of the Commissioner and his predecessors, as well as those of jurists' associations and parliamentary committees, very little progress has been made over the past 20 years.

At present, the Minister of Justice consults informally with the chief justices of the superior courts about the appointment of bilingual judges. However, the appointment process still does not guarantee that a sufficient number of bilingual judges will be appointed to ensure equal access to justice in English and French.

NEXT STEPS

The time has come for the Minister of Justice and his provincial and territorial counterparts to take concerted action that will ensure equal access to justice in both official languages. The Commissioner's recommendations in his study on the bilingual capacity of the superior court judiciary are concrete and pragmatic. However, it will only be possible to implement them with the full cooperation of the chief justices and the various decision makers in the justice community.

3.9 Part VII complaints: 2006–2013

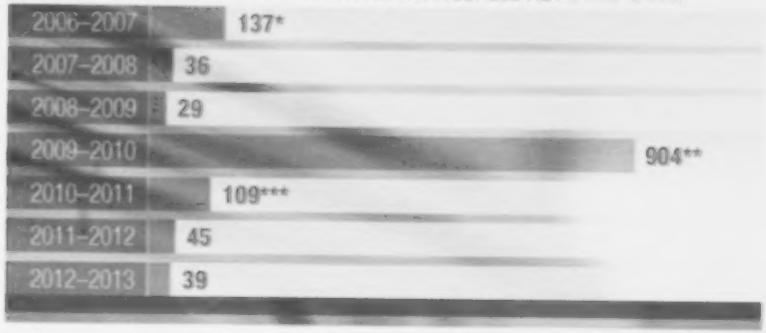
The Commissioner received 1,299 complaints related to Part VII of the *Official Languages Act* (advancement of English and French) between 2006 and 2013. These complaints represent 24% of all the admissible complaints the Commissioner has received over the past seven years.

Because Part VII complaints are usually triggered by specific government decisions, no single federal institution generated Part VII complaints in every year between 2006 and 2013. However, CBC/Radio-Canada and Canadian Heritage were the object of Part VII complaints in five of the past seven years.

The closure of an office or elimination of a program is the most common cause for complaint. The creation of a new program occasionally generates complaints when it is felt that linguistic duality or the needs of official language communities were not taken into account.

FIGURE 1

COMPLAINTS UNDER PART VII OF THE *OFFICIAL LANGUAGES ACT* (2006–2013)



*118 – Elimination of Court Challenges Program of Canada

**876 – Budget cuts at CBEF Windsor radio station

***84 – Elimination of mandatory long form census questionnaire

Although the number of Part VII complaints was high in 2006–2007 (137) and in 2010–2011 (109), it really peaked in 2009–2010 (904). That year, the vast majority of Part VII complaints (876) concerned a specific event—CBC/Radio-Canada's budget cuts at CBEF Windsor radio station. The 2009–2010 total represents 70% of all Part VII complaints filed between 2006 and 2013.

Other events that led many Canadians to file a complaint under Part VII of the Act included the elimination of the mandatory long-form census questionnaire (84), the Vancouver 2010 Olympic Winter Games (38), the reorganization of Service Canada offices in the Atlantic provinces in 2011 (18), and the decision in that same year to close the Québec City Marine Rescue sub-centre (24).

TABLE 1
FEDERAL INSTITUTIONS WITH THE MOST COMPLAINTS UNDER PART VII OF THE *OFFICIAL LANGUAGES ACT* (2006–2013)

FEDERAL INSTITUTION	NUMBER OF COMPLAINTS
CBC/Radio-Canada	896
Canadian Heritage	54
Service Canada	32
Industry Canada	26
National Defence	26
Statistics Canada	25
Fisheries and Oceans Canada	19
Western Economic Diversification Canada	11
Privy Council Office	8
Air Canada	7

Table 1 shows that CBC/Radio-Canada has had by far the most Part VII complaints (896) filed against it over the past seven years. However, 98% of these complaints (876) were made in one year, 2009–2010, and related to one event: the budget cuts at CBEF Windsor radio station.

In addition, a total of 120 complaints were filed with regard to government-related decisions involving multiple federal institutions between 2006 and 2013; however, 118 of these were made in 2006–2007 and related to budget cuts, most notably the elimination of the Court Challenges Program of Canada.

Between 2006 and 2013, 1,169 (90%) of the 1,299 Part VII complaints received by the Commissioner related to the Government of Canada's obligation to enhance the vitality of Canada's official language communities.

4 section 4

MODULE 4.1
LINGUISTIC DUALITY AND CULTURAL DIVERSITY ARE COMPLEMENTARY, NOT CONTRADICTORY 66

MODULE 4.2
TOWARDS A TRUE CONTINUUM OF SECOND-LANGUAGE LEARNING 67

MODULE 4.3
THE VANCOUVER GAMES: LESSONS LEARNED 70

MODULE 4.4
APPOINTING UNILINGUAL CANDIDATES TO HIGH-PROFILE POSITIONS: AWKWARD AT BEST 72

Is linguistic duality a fundamental value in Canada?

In a recent speech, the Commissioner said that "sometimes there is a disconnect between our aspirations for linguistic duality, as expressed by our laws and political discourse, and reality."[1]

Indeed, the federal government does not seem to place a high enough priority on linguistic duality as a Canadian value. If this were the case, then the cultural component of the opening ceremony of the Vancouver 2010 Olympic Winter Games would have been a resounding linguistic success, and a fully qualified bilingual senior official would now hold the key position of Auditor General of Canada.

In addition to these two very public examples, which outraged a great number of Canadians—both English- and French-speaking—there are many others that have attracted rather less attention but still show a lack of federal leadership in the promotion of linguistic duality. For example, how many people know that thousands of young Canadians want to become bilingual but cannot because the federal government is slow to take strong measures to ensure that all Canadians can learn English or French as a second language in elementary school, high school and right up through university?

When it comes to promoting linguistic duality, the federal government seems to be trailing behind the public instead of leading the way. While nearly two thirds of Canadians personally favour bilingualism for all of Canada,[2] the government seems to be unaware of this reality or fails to use it as a springboard to progress.

As we approach the 150th anniversary of Canadian Confederation, it is high time to change the status quo.

1. Commissioner of Official Languages, *Planning for language use: The ever-changing challenges*, Notes for an address at the Multidisciplinary Approaches in Language Policy and Planning Conference at the University of Calgary, Calgary, September 7, 2012. On-line version (www.officiallanguages.gc.ca/html/speech_discours_07092012_e.php) accessed March 31, 2013.
2. The Environics Institute, *Focus Canada 2012*, Toronto, 2012, p. 5. On-line version (www.environicsinstitute.org/uploads/institute-projects/environics%20institute%20-%20focus%20canada%202012%20final%20report.pdf) accessed March 31, 2013.

4.1 Linguistic duality and cultural diversity are complementary, not contradictory

ISSUE

Canada's linguistic duality and cultural diversity are national values supported by specific legislation and policies, and promoting these values helps to strengthen the social cohesion of the country. Because the dynamic of Canada's socio-demographic landscape is constantly changing, it is important to examine how these concepts relate to each other and to the Canadian identity. It is also important to explore how, together, they affect Canadians and newcomers in their daily lives.

COMMISSIONER'S ACTIONS

The Commissioner has organized a series of forums to discuss linguistic duality and cultural diversity with Canadians of diverse backgrounds. The first forum was held in Toronto, Ontario, in 2007, the second in Vancouver, British Columbia, in 2008, the third in Halifax, Nova Scotia, in 2011 and the fourth in Montréal, Quebec, in 2012.

ASSESSMENT OF THE CURRENT SITUATION

In all four forums, most participants had a deep appreciation for linguistic duality as a core Canadian value. In addition, most agreed that linguistic duality and cultural diversity are intrinsically linked, with each reinforcing the other. Many participants also said that they had been surprised to find that the two official language communities lived side by side, yet apart, in a majority-minority situation.

Participants of the Toronto, Vancouver and Halifax forums considered French-language educational institutions to be a medium through which newcomers can develop a feeling of belonging to French-speaking communities. Members of these communities said that the lack of visibility of their communities makes it difficult to receive services in French in their region. This has led some French-speaking newcomers to choose to settle in an English environment.

The Halifax forum was the first two-day event focusing on English- and French-speaking Canadians of diverse backgrounds and their perceptions of linguistic duality and its relationship to cultural diversity.

The forum in Montréal, like the Halifax forum, was a two-day event that gave English- and French-speaking Quebecers an opportunity to share their own experiences regarding the relationship between linguistic duality and cultural diversity. Participants at the Montréal event stressed the importance of both language education and cross-cultural education for everyone in Quebec. They also raised the issue of identity, and how to be a Canadian and a Quebecer while remaining connected to a cultural heritage from another country.

NEXT STEPS

The Commissioner intends to follow up on the following suggestions from forum participants:

- The Office of the Commissioner should do more to promote and raise awareness of linguistic duality in Canadian society.
- Language training in both official languages should be made more accessible to newcomers.
- Both of Canada's official language cultures should be celebrated, and learning the minority official language should be encouraged in schools.
- Official language communities should cooperate more in welcoming newcomers (for example, organizations providing services to English-speaking newcomers and those providing services to French-speaking newcomers should work together).
- An information kit describing the language situation in each province should be made available to immigrants prior to their arrival in Canada.

Towards a true continuum of second-language learning 4.2

ISSUE

Globalization and the knowledge economy are placing a premium on soft skills, including language and intercultural skills. It is therefore not surprising that employers consider it increasingly important that part of their workforce be able to speak Canada's two official languages. Second-language learning is also essential for strengthening Canadian identity and citizenship and for fostering better understanding among Canadians. Over the past three decades, major investments in immersion programs across the country have resulted in a new generation of bilingual Canadians, many of whom are now in post-secondary institutions. These are students who are ready, willing and able to learn in their second official language.

It will take concerted action if Canada is to provide a true continuum of second-language learning opportunities for all Canadians, from elementary school through to the labour market. This continuum is an important and integral part of preparing our young people to be productive employees and citizens who can invest themselves fully in the civic life of their country.

COMMISSIONER'S ACTIONS

Recognizing the lack of research on second-language learning opportunities at the post-secondary level, the Commissioner published a study on Canada's universities in 2009 called *Two languages, a world of opportunities: Second-language learning in Canada's universities*.

The findings showed that there were relatively few universities that recognized the importance of offering second-language learning opportunities and of their role in building a bilingual workforce. The study also found that there is no comprehensive approach for building a system to support a continuum of second-language learning. The Commissioner met with various key partner groups and co-organized round tables in six provinces to discuss the results of the study and increase awareness of this issue.

As a complement to the 2009 study, the Office of the Commissioner developed an on-line map of Canada to help students find out about learning opportunities in various universities across the country. The map lists second-language courses, subject-matter courses taught in the second official language, support programs, networking activities and exchange programs that are available at more than 85 Canadian universities.

BILINGUAL GRADS IN DEMAND

"Bilingual grads are in greater demand on the job market than ever. According to a study cited in [Commissioner] Fraser's [2009] report, Canadian employment rates are higher for those who speak both English and French, and they make more money. 'The federal government is Canada's largest employer, and it needs bilingual employees,' Fraser says. Because of cutbacks, the old model—in which the government provides language training to employees who require it—is out of favour. As a result, job candidates who speak both official languages are more attractive prospects."[3]

3. Kate Lunau, "On the money: Bilingual grads are in greater demand than ever before—and universities are responding," *Maclean's 2013 University Rankings*, November 1, 2012, p. 84.

ASSESSMENT OF THE CURRENT SITUATION

At the elementary and high school levels, we are still far from achieving the vision in which all Canadians have access to the necessary resources to effectively learn English and French. Registration issues, such as enrolment caps, overnight lineups and lotteries, continue to hinder access to second-language programs in many regions. In several provinces, school officials need to provide better support to allophone parents who are interested in these programs.

At the post-secondary level, some universities have increased their second-language learning opportunities, while others have reduced their efforts in this area. The decision to reduce efforts is caused by various factors. For example, the Government of Canada is not expressing its need for bilingual workers loudly and clearly enough to prompt post-secondary education officials to pay more attention to the benefits of second-language learning.

At the end of March 2013, the federal government released its new five-year official languages action plan, the *Roadmap for Canada's Official Languages 2013-2018: Education, Immigration, Communities*. The Commissioner was disappointed that the funding for official languages learning (minority-language education and second-language instruction) had been cut by nearly $35 million. Despite the fact that two out of the three recommendations the Commissioner made in his 2011–2012 annual report related to second-language learning—through language exchange programs or through learning opportunities at the post-secondary level—the 2013–2018 Roadmap did not include any new funding to increase second-language learning opportunities for young Canadians. Another initiative that was not included in this Roadmap was the Canada School of Public Service's program to make its second-language learning tools accessible to students at Canadian universities—a program the Commissioner had often cited as a best practice.

SECOND-LANGUAGE PROGRAMS: A WINNING PROPOSITION

"Lori Chang-Foidl's family spoke Cantonese at home in Calgary in the 1970s. Her parents were immigrants from Macau and Trinidad, and though neither spoke French they believed that their children, born into a bilingual country, should learn both languages, she said. When her own daughter was born the first thing she did was start looking for a French immersion school. Today her daughter is pursuing French as part of a double major at university. 'I don't know of any parents of [French immersion] students who have regretted the decision to enroll them in a bilingual program. It's a bit of a mystery to me why parents are hesitant or negative towards the idea,' Ms. Chang-Foidl said."[4]

4. Joe Friesen, "French immersion enrolment skyrockets as a new linguistic category emerges," *The Globe and Mail*, January 28, 2013. On-line version (www.theglobeandmail.com/news/national/education/french-immersion-enrolment-skyrockets-as-a-new-linguistic-category-emerges/article7935100/?page=all) accessed March 31, 2013.

NEXT STEPS

The findings of the 2009 study and the Commissioner's recommendations resulting from those findings remain highly pertinent today:

- To offer young Canadians second-language learning opportunities, our country should better exploit the potential of minority-language educational institutions (i.e., English-language institutions in Quebec and French-language institutions in the other provinces).
- Educational institutions should focus on working together and using technology to improve opportunities for second-language learning.
- A priority should be to increase the number of exchanges and real-life opportunities for students to use their second official language and interact with people who speak that language.
- Stronger university second-language policies and requirements should be part of an overall strategy to improve second-language learning.
- Students should receive more information about the advantages of learning their second language and about the opportunities available to them.
- A common language proficiency framework should be developed to help assess students' second-language skills.

To achieve a true continuum of second-language learning, the federal government must demonstrate its leadership by developing an overall strategy on this issue. To effect change and channel resources, it should also use the Protocol for Agreements for Minority-Language Education and Second-Language Instruction. The Commissioner hopes that this protocol will strengthen and support the initiatives and investments outlined in the 2013–2018 Roadmap, so that Canadians who want to learn their second official language will have the tools to do so.

"[A]s I mentioned in our study of second-language learning in Canadian universities, I recommend that the Government of Canada provide financial assistance to universities so that they can develop and carry out new initiatives to improve students' second-language learning opportunities. There needs to be a continuum of second-language learning from elementary school to the post-secondary level and then into the workplace."[5]

– Graham Fraser, Commissioner of Official Languages

5. Commissioner of Official Languages, *Evaluation of the* Roadmap for Canada's Linguistic Duality 2008–2013: Acting for the Future, Notes for an appearance before the House of Commons Standing Committee on Official Languages, Ottawa, March 15, 2012. On-line version (www.officiallanguages.gc.ca/html/speech_discours_15032012_e.php) accessed March 31, 2013.

4.3 The Vancouver Games: Lessons learned

ISSUE

In 2010, the Olympic and Paralympic Winter Games were held in Vancouver, British Columbia. Under the *Official Languages Act*, federal institutions contributing to the Games, whether directly or indirectly, had a duty to promote linguistic duality and to use the event as a platform to enhance the vitality of official language communities.

The Government of Canada recognized this fact by including language clauses in the agreement between partners of the Games and the Vancouver Organizing Committee for the 2010 Olympic and Paralympic Winter Games. However, even before the official opening of the Games, problems emerged that jeopardized full compliance with these provisions. Concerns about volunteer recruitment and training, signage, cultural activities, and translation and interpretation services were raised by a number of parties, including the Standing Senate Committee on Official Languages, the House of Commons Standing Committee on Official Languages and organizations representing French-speaking communities.

COMMISSIONER'S ACTIONS

The Commissioner made the Games one of the early priorities of his mandate. He helped to prevent potential language problems at the event and undertook various activities to encourage the proactive resolution of problems, including a study in December 2008, an awareness campaign in the winter of 2009 for decision makers of federal institutions contributing to the Games, a follow-up report on the situation in September 2009 and a final report in December 2010.

Overall, the Games were a success with respect to linguistic duality. However, following the opening ceremony of the Olympic Games, the Commissioner had to intervene in response to 38 complaints about the significant shortcomings in terms of French content in the cultural component of the ceremony. The Commissioner's investigation showed that these complaints were founded and that Canadian Heritage had failed to meet its obligations under Part VII of the Act (advancement of English and French). Although the visual components of the ceremony's cultural segment reflected the country's Francophone aspect, and although artists and professionals from French-speaking Canada participated in the event, one important fact remained: French was barely heard during the cultural component of the opening ceremony.

The Commissioner recommended that Canadian Heritage modify the language clauses included in contribution agreements in order to clarify recipient organizations' language responsibilities related to service to the public and promotion of linguistic duality. He also recommended that these clauses clearly define the results expected by Canadian Heritage and include indicators to measure the recipients' performance.

The Commissioner published a guide called *Organizing a Major Sporting Event in Canada: A Practical Guide to Promoting Official Languages* based on the lessons learned from the Games. The guide is designed to help the federal government and its partners comply with the Act when holding major cultural or sporting events in Canada.

The Commissioner and his staff also implemented various awareness strategies on the importance of taking linguistic duality into account at each stage of organizing an event. With the help of the Practical Guide, he raised awareness among the organizers of both the 2013 Canada Summer Games in Sherbrooke, Quebec, and the 2015 Pan American Games and Parapan American Games

in Toronto, Ontario. Organizers of the Sherbrooke Games invited the Office of the Commissioner to participate in the event's organizational process right from the beginning.

ASSESSMENT OF THE CURRENT SITUATION

Despite the issue regarding French content during the cultural component of the opening ceremony of the Olympic Games, the Vancouver Games were a great success in helping to promote linguistic duality. This important linguistic legacy is proof that Canada is able to excel when it comes to serving Canadians in the official language of their choice, in increasing the visibility of English and French, and in taking official language communities' needs into consideration.

NEXT STEPS

The federal government contributes to the organization of many major events, such as the Canada Games in 2013 (Sherbrooke, Quebec), 2015 (Prince George, British Columbia) and 2017 (Winnipeg, Manitoba); the Pan American and Parapan American Games in 2015 (Toronto, Ontario); and Canada's 150th anniversary celebrations in 2017.

It is important for the federal government to remind event organizers that they must take linguistic duality into account. In order to fully meet Canadians' expectations during events, all services provided to participants and spectators must be in English and French, and these two languages must be heard and seen during the cultural activities.

Planning is the key to a successful event. Organizing committees therefore need to be aware of Canadians' expectations and understand what needs to be done in order to provide services in both official languages.

4.4 Appointing unilingual candidates to high-profile positions: Awkward at best

ISSUE

The fall of 2011 was marked by the controversial appointments of two unilingual Canadians by the Governor in Council: one to the Supreme Court of Canada and the other to the position of Auditor General of Canada. These appointments had a substantial impact on public opinion throughout Canada.

COMMISSIONER'S ACTIONS

The Commissioner has often insisted that the federal government take candidates' language skills into account when making Governor in Council appointments, particularly those of Supreme Court justices, senior federal officials and agents of Parliament, including the Auditor General of Canada.

The Commissioner has also repeatedly pointed out that being able to communicate in English and French is an essential leadership skill for many senior federal officials. The bilingualism of these leaders plays a major role in federal institutions' ability to work effectively in both official languages, comply with their language obligations to their employees and the public, and reflect Canadian values across the country and around the world.

The Commissioner took action on this issue after receiving 43 complaints about the appointment of a candidate who was not proficient in both official languages as Auditor General of Canada.

The Commissioner conducted an investigation and concluded that the Privy Council Office had not ensured that the language obligations set out in the *Official Languages Act* were taken into consideration when determining the linguistic profile of the position to be filled and when recommending candidates to the Governor in Council.

The Commissioner reminded the Privy Council Office that the language requirements must accurately reflect the nature of each position and the scope of the incumbent's responsibilities. He recommended that the institution take the requirements of the Act into account when determining the linguistic profile of positions to be filled. He also recommended that, when proficiency in both official languages is deemed essential to carry out the duties of a position, the Privy Council Office ensure that the candidate selected has the required skills at the time of his or her recommendation to the Governor in Council.

ASSESSMENT OF THE CURRENT SITUATION

Since 2011, the public debate surrounding the appointment of unilingual candidates to key positions in the federal public service has moved forward. The New Democratic Party's Bill C-419, concerning the language skills of agents of Parliament, was tabled in 2012 and passed in June 2013. The Commissioner strongly supported Bill C-419, which was in line with his own recommendations to the Privy Council Office. The new *Language Skills Act* stipulates that any person appointed to certain offices, including that of the Auditor General of Canada, "must, at the time of his or her appointment, be able to speak and understand clearly both official languages."[6]

NEXT STEPS

The Commissioner believes that the *Language Skills Act* sends a clear message that language skills are more than an asset. The Privy Council Office should declare that proficiency in English or French as a second language is a prerequisite for any key position for which an appointment is made by the Governor in Council. A bold statement like this coming from the Privy Council Office might encourage universities to increase their efforts to provide second-language learning opportunities to their students, which would in turn help to create pools of bilingual candidates.

In early 2013, the Commissioner initiated a study to identify how the Privy Council Office determines the language requirements of positions whose incumbents are appointed by the Governor in Council.

6. *Language Skills Act*, 2013, c. 36, s. 2.

section 5

MODULE 5.1
AUDITS AND AUDIT FOLLOW-UPS: 2006–2013 74

MODULE 5.2
OVERVIEW OF COMPLAINTS: 2006–2013 75

Analysis of audits and complaints: 2006–2013

As Canada's official languages ombudsman, the Commissioner, like his predecessors, plays the role of watchdog by investigating complaints and conducting audits.

Most complaints received by the Commissioner between 2006 and 2013 came from the National Capital Region and the provinces of Ontario and Quebec, and primarily concerned a lack of French on the part of federal institutions.

According to the audits conducted by the Commissioner over the past seven years, some federal institutions are experiencing recurring problems. These problems could be resolved by systematically applying the virtuous circle of implementing the *Official Languages Act*.[1]

1. For more information about the virtuous circle of implementing the *Official Languages Act*, please see page 2.

5.1 Audits and audit follow-ups: 2006–2013

ISSUE

The Commissioner plays a proactive role by conducting audits to measure federal institutions' and other organizations' compliance with the *Official Languages Act*.

An audit assesses how well an institution is meeting its obligations under the Act and emphasizes prevention by identifying shortcomings as they emerge and before they become systemic problems. The Commissioner calls on the managers of an audited institution to develop an action plan to respond to issues identified during the course of the audit.

The final audit report includes the findings of the audit team, the Commissioner's recommendations and the action plan submitted by the institution in response to the recommendations. A follow-up is conducted 12 to 18 months after the publication of the final report to assess how the institution is implementing the recommendations.

COMMISSIONER'S ACTIONS

The Commissioner has conducted 10 audits and 9 audit follow-ups since October 2006. The purpose of the audits was to verify the compliance of selected federal institutions with a specific part of the Act, most often Part IV (communications with and services to the public) but also Part V (language of work) and Part VII (advancement of English and French).

Looking at the series of audits as a whole, the following recommendations were common to a number of institutions:

- Take effective measures to raise awareness among managers and employees of their responsibilities under the Act.
- Develop, implement or update an action plan on the effective application of the Act, and ensure that the plan reflects the institution's specific realities.
- Develop, implement or improve accountability frameworks for official languages in order to clearly define employees' roles and responsibilities under the Act.
- Consult with official language communities to understand and take into account their needs when developing activities, services or programs.
- Implement monitoring mechanisms to ensure that activities comply with the Act.

The Commissioner also made numerous recommendations regarding the language requirements of positions, especially to institutions that provide services directly to the public:

- Review the linguistic profiles of bilingual positions.
- Raise the linguistic profiles of certain positions.
- Ensure that employees meet the language requirements of their positions.

ASSESSMENT OF THE CURRENT SITUATION

Audit follow-ups revealed that most federal institutions audited by the Commissioner implemented most of his recommendations and took concrete, effective measures to address their shortcomings in implementing the Act. Several institutions, however, could do more to address the issues identified during audits and improve their overall performance when it comes to official languages.

NEXT STEPS

Federal institutions need to demonstrate leadership and ensure that the elements of the virtuous circle of implementing the *Official Languages Act*[2] are present in their approach to official languages. This way, they can successfully implement an audit's recommendations and achieve sustainable results.

2. For more information about the virtuous circle of implementing the *Official Languages Act*, see page 2.

Overview of complaints: 2006–2013 5.2

The Commissioner protects the language rights of Canadians and promotes the equality of English and French in Canadian society. The Commissioner receives and reviews complaints, investigates those that are deemed admissible and makes any necessary recommendations.

ADMISSIBILITY OF COMPLAINTS

Filing a complaint does not automatically mean that it is admissible. For a complaint to be considered admissible, it must meet the following criteria:

- It involves a federal institution.
- It relates to an obligation under the *Official Languages Act*.
- It concerns a specific incident or series of incidents.

TABLE 1

ADMISSIBLE COMPLAINTS BY PROVINCE/TERRITORY (2006–2013)

	2006 2007	2007 2008	2008 2009	2009 2010	2010 2011	2011 2012	2012 2013	TOTAL
Newfoundland and Labrador	2	5	7	11	6	11	8	50
Prince Edward Island	30	16	17	17	7	3	3	93
Nova Scotia	59	58	42	37	52	33	9	290
New Brunswick	81	49	49	43	35	36	24	317
Quebec	93	90	66	68	505	55	70	947
National Capital Region (Quebec)	88	33	67	93	57	49	49	436
National Capital Region (Ontario)	229	167	163	141	209	200	152	1,261
Ontario	89	95	105	956	51	77	52	1,425
Manitoba	31	50	19	27	10	25	20	182
Saskatchewan	7	7	6	8	3	2	2	35
Alberta	33	27	28	25	11	13	9	146
British Columbia	22	22	22	38	23	7	8	142
Yukon	2	3	1	1	3	0	0	10
Northwest Territories	0	3	3	2	0	1	0	9
Nunavut	0	0	0	0	1	0	0	1
Outside Canada	8	9	11	10	8	6	9	61
TOTAL	774	634	606	1,477	981	518	415	5,405

The Commissioner received 5,405 admissible complaints between 2006 and 2013. Table 1 shows that the largest number of complaints came from Ontario (1,425), the National Capital Region in Ontario (1,261) and Quebec (947). It is important to note, however, that a significant proportion of the complaints from Ontario and Quebec were related to events such as the budget cuts at CBEF Windsor radio station (876 complaints received in 2009–2010 alone in Ontario) and language-of-work issues such as supervision, training and work tools at Air Canada's Montréal office (437 complaints received in 2010–2011 alone in Quebec).

The annual number of complaints filed with the Commissioner decreased from 774 in 2006–2007 to 415 in 2012–2013. This decrease was particularly evident outside the National Capital Region, where the number of complaints fell by 55% between 2006 and 2013. In the National Capital Region, the number of complaints also fell—by 37%.

TABLE 2

FEDERAL INSTITUTIONS WITH THE MOST COMPLAINTS (2006–2013)

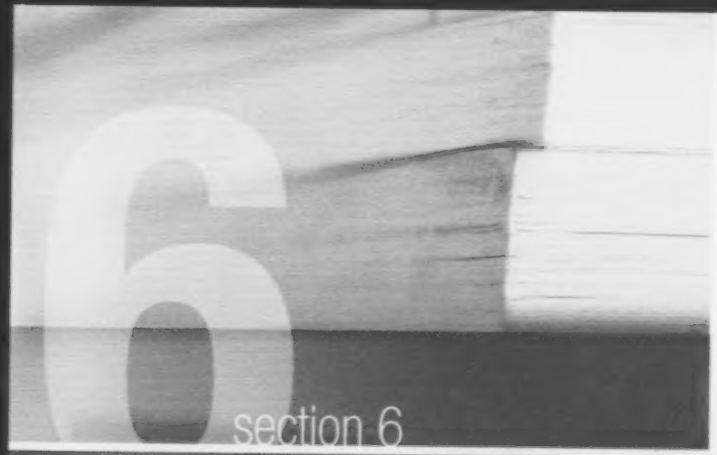
FEDERAL INSTITUTION	NUMBER OF COMPLAINTS
CBC/Radio-Canada	922
Air Canada	858
Canada Post	282
Canada Border Services Agency	209
National Defence	202
Canadian Heritage	184
Service Canada	175
Public Works and Government Services Canada	151
Correctional Service of Canada	134
Royal Canadian Mounted Police	134

Among the federal institutions that had the most complaints filed against them from 2006 to 2013, four were on the "top 10" list every year: Air Canada, Canada Post, the Canada Border Services Agency and National Defence.

The institution that generated the most complaints was CBC/Radio-Canada, with 922 complaints. The budget cuts at CBEF Windsor radio station were the cause of 876 of the 885 complaints filed in 2009–2010. Only 37 complaints were filed against the public broadcaster in the other six years combined.

Air Canada was the object of the second highest number of complaints over seven years (858). Although the complaints against the Air Canada office in Montréal accounted for more than half (51%) of the total in only one year (2010–2011), the national carrier still generated a high number of complaints every year.

Canada Post had 282 complaints filed against it between 2006 and 2013; however, no single event caused a significant number of these complaints. The number has been steadily decreasing, though, from 57 in 2006–2007 to 36 in 2012–2013 (a 37% drop).



section 6

MODULE 6.1
INTERVENING BEFORE THE COURTS 78

MODULE 6.2
RENEWING THE COMMISSIONER'S ROLE AS CANADA'S LANGUAGE OMBUDSMAN 81

MODULE 6.3
PROMOTING LINGUISTIC DUALITY THROUGH REGIONAL OFFICES 84

MODULE 6.4
COMMISSIONER'S ACTIVITIES: 2006–2013 87

The Commissioner's changing role

Shortly after he was appointed in 2006, the Commissioner decided that in order to make linguistic duality a Canadian value and strengthen the vitality of official language communities, he would be part cheerleader, part nag. In other words, he would both encourage and criticize federal institutions as needed. Over the past seven years, the Commissioner has adopted various measures to ensure the right balance between each part of this dual role.

He implemented a more sustainable and efficient facilitated resolution process for complaints. He worked more closely with federal institutions to encourage them to acknowledge and address their shortcomings before they got worse. He decided to bring language-related cases before the courts himself. He made some changes to how his office's regional offices operate so that they could be more proactive in promoting English and French in Canadian society. He adopted a new, more systematic approach to deal with parliamentarians.

In order to fulfill his duties more effectively and efficiently, the Commissioner will continue to review and renew his approach. But above all, he will continue to maintain an open, ongoing and close relationship with members of civil society—especially representatives of official language communities—who are affected by official languages issues.

6.1 Intervening before the courts

ISSUE

The Commissioner has a number of powers to protect the language rights of Canadians and to promote linguistic duality in Canada. The Commissioner's power to intervene before the courts is not well-known among members of the public and of Parliament. Over the past seven years, the Commissioner has reviewed the extent of this power to determine whether it would be appropriate to exercise it proactively, in certain circumstances, by applying for court remedies himself.

COMMISSIONER'S ACTIONS

Between 2006 and 2013, the Commissioner intervened in 14 court cases relating to language rights guaranteed by the *Official Languages Act* or the *Canadian Charter of Rights and Freedoms*. He played a strategic role, usually as an intervener, in remedies initiated by complainants. Through these interventions, the Commissioner has made a unique contribution to the language rights debate.

The Commissioner played a particularly proactive role in three of these cases, whether as primary or co-appellant:

- In *DesRochers v Canada (Industry)*, the Supreme Court of Canada ruled on the nature and scope of the principle of substantive equality pertaining to communications with and services to the public, pursuant to Part IV of the *Official Languages Act*.
- In *Canada (Commissioner of Official Languages) v CBC/Radio-Canada*, a case still pending, the Commissioner has asked the Federal Court to recognize his authority to investigate complaints against the national broadcaster.
- In *Thibodeau v Air Canada*, a case still pending, the Supreme Court of Canada has been called upon to clarify the impact of the Montreal Convention on the remedial powers of the Federal Court and whether Air Canada has a systemic problem.

Since 2010, the Commissioner has consulted with community representatives, academics and legal professionals to clarify the criteria on which he should base his decisions as to whether he should intervene in legal proceedings initiated by a complainant or apply for a court remedy himself with the complainant's consent. The two most important criteria to consider are:

- the importance of obtaining the courts' interpretation of the scope of the language rights involved in a complaint received under the Act or the scope of the language obligations of the Canadian government and its institutions; and
- the impact of the case and its outcome on the development of official language communities or on the equality of English and French.

The Commissioner applied these criteria for the first time, in a decision to use his power to intervene proactively before the courts by seeking a court remedy against CBC/Radio-Canada. The Commissioner's decision was prompted by the results of his investigation into complaints about the national broadcaster's budget cuts to CBEF French-language radio station in Windsor, Ontario.[1]

1. For more information on CBC/Radio-Canada's budget cuts to CBEF Windsor, please see module 3.6, page 56.

ASSESSMENT OF THE CURRENT SITUATION

The courts contribute to advancing language rights and play a crucial role in implementing Canada's linguistic duality. The decisions of the courts must guide and encourage governments to strengthen their leadership and foster increased dialogue with Canadians. This dialogue, in turn, is the best way to achieve the substantive equality of English and French.

NEXT STEPS

Parliamentarians need to be proactive when an ambiguity in legislation leads to inaction by the governmental and administrative structure, as is the case with the legislative gap involving the language rights of Jazz's[2] employees and clients.

TABLE 1

THE COMMISSIONER'S INTERVENTIONS BEFORE THE COURTS (2006–2013)

PERIOD	ISSUE
2006–2007	*Air Canada v Thibodeau*, 2007 FCA 115: The Federal Court of Appeal confirmed that the goal of Part IV of the *Official Languages Act* (communications with and services to the public) is to produce a specific result: in this case, to ensure that the travelling public has equal access to services in English and French.
2007–2008	*Fédération des communautés francophones et acadienne du Canada v Canada (Attorney General)*, FC case number T-622-07: This case opposing the federal government's decision to abolish the Court Challenges Program of Canada was settled out of court.
2008–2009	*Société des Acadiens et Acadiennes du Nouveau-Brunswick Inc. v Canada*, 2008 SCC 15: The Supreme Court of Canada clarified the Royal Canadian Mounted Police's obligations under the *Canadian Charter of Rights and Freedoms* when it acts on behalf of the province of New Brunswick.
	Northwest Territories (Attorney General) v Fédération Franco-Ténoise, 2008 NWTCA 06: The Northwest Territories Court of Appeal ruled on the obligations of the Government of the Northwest Territories under the Northwest Territories *Official Languages Act*.
	Northwest Territories (Attorney General) v Fédération Franco-Ténoise, 2009 CANLII 9789 (SCC): The Supreme Court of Canada refused the Federation's application for leave to appeal the judgment issued by the Northwest Territories Court of Appeal.
	DesRochers v Canada (Industry), 2009 SCC 8: The Supreme Court of Canada clarified the principle of substantive equality with regard to federal institutions' language obligations in communications with and services to the public.

2. For more information on the language obligations of Air Canada and its third-party contractors, such as Jazz, please see module 1.5, page 14.

TABLE 1
THE COMMISSIONER'S INTERVENTIONS BEFORE THE COURTS (2006–2013) *(cont.)*

PERIOD	ISSUE
2009–2010	*Temple v VIA Rail Canada Inc.*, 2009 FC 858: The Federal Court clarified the obligations of federal institutions with respect to the linguistic designation of positions, as set out in section 91 (Part XI) of the *Official Languages Act*, as well as the Federal Court's jurisdiction to hear such matters.
	Nguyen v Quebec (Education, Recreation and Sports), 2009 SCC 47: In a unanimous decision, the Supreme Court of Canada found that the criteria in the *Charter of the French Language* for determining whether a child is eligible to receive instruction in publicly funded English-language schools limit the minority language education rights guaranteed by section 23 of the *Canadian Charter of Rights and Freedoms*.
2010–2011	*R. v Caron*, 2011 SCC 5: The Supreme Court of Canada recognized the power of superior courts to grant interim costs in proceedings on language rights.
2011–2012	*Thibodeau v Air Canada*, 2011 FC 876: The Federal Court was called upon to clarify the impact of the Montreal Convention on the Federal Court's remedial powers and whether Air Canada has a systemic problem.
2012–2013	*Air Canada v Thibodeau*, 2012 FCA 246: The Federal Court of Appeal ruled that, because of the provisions of the Montreal Convention, the Federal Court could not order Air Canada to pay monetary damages for violations of the *Official Languages Act* that took place on international flights.
	Michel Thibodeau et al. v Air Canada et al., SCC case number 35100: The Thibodeaus and the Commissioner of Official Languages were granted permission to appeal the Federal Court of Appeal's ruling before the Supreme Court of Canada, because of the significant impact of this ruling on the scope of the *Official Languages Act* and on the effectiveness of the Federal Court's remedial powers.
	Canada (Commissioner of Official Languages) v CBC/Radio-Canada, 2012 FC 650: The Commissioner of Official Languages has asked the Federal Court to recognize his authority to investigate complaints against CBC/Radio-Canada.
	Conseil scolaire francophone de la Colombie-Britannique v British Columbia, 2013 SCC 42: In a 4-3 split decision, the Supreme Court of Canada found that the *1731 Act* is still in force in British Columbia and that civil proceedings must be conducted in English. A judge presiding over civil proceedings in British Columbia therefore does not have the discretion to admit documents in other languages without an English translation.

Renewing the Commissioner's role as Canada's language ombudsman 6.2

ISSUE

One of the Commissioner's primary roles is to act as Canada's language ombudsman. This involves listening to the concerns of Canadians and intervening with federal institutions to ensure that they take appropriate action to address issues of compliance with the *Official Languages Act*. The Commissioner has developed various tools and strategies in order to be as effective as possible in this role.

COMMISSIONER'S ACTIONS

To improve the ombudsman services his office provides to Canadians, the Commissioner has made a number of changes to existing tools. For example, he has made his report cards more strategic and results oriented in evaluating the overall compliance of federal institutions with key sections of the Act. Discussions with heads of institutions as part of the report card process have become more frequent and proactive.

The Commissioner has also created new tools. For instance, the facilitated resolution process introduced in 2009 focuses on settling complaints quickly and effectively. With this method, the Commissioner encourages institutions to resolve the issue raised in a complaint, without his having to determine whether the complaint is founded. The facilitated resolution process is now the preferred method for resolving complaints, unless the Commissioner or the complainant decides that the formal investigation process is more appropriate.

Another new initiative involves sending semi-annual reports to various heads of federal institutions. These reports outline the status of the complaints against their organizations and highlight successes and concerns.

The Office of the Commissioner increased its efforts in the area of prevention. For example, the awareness campaign on official languages conducted prior to the Vancouver 2010 Olympic and Paralympic Winter Games yielded positive, tangible results.

The most recent innovation, launched in February 2013, provides a secure on-line complaint form for federal employees or citizens who believe their language rights have not been respected.

ASSESSMENT OF THE CURRENT SITUATION

The Commissioner introduced the facilitated resolution process as an alternative to the formal investigation process in 2009. Within two years, this process was being used to resolve complaints 39% of the time. By 2013, two thirds of all complaints were being handled through the facilitated resolution process.

The goal of the facilitated resolution process is to reduce the time required to address a complaint and effect changes in federal institutions' practices.

TABLE 1
SERVICE STANDARDS FOR THE FORMAL INVESTIGATION PROCESS AND THE FACILITATED RESOLUTION PROCESS

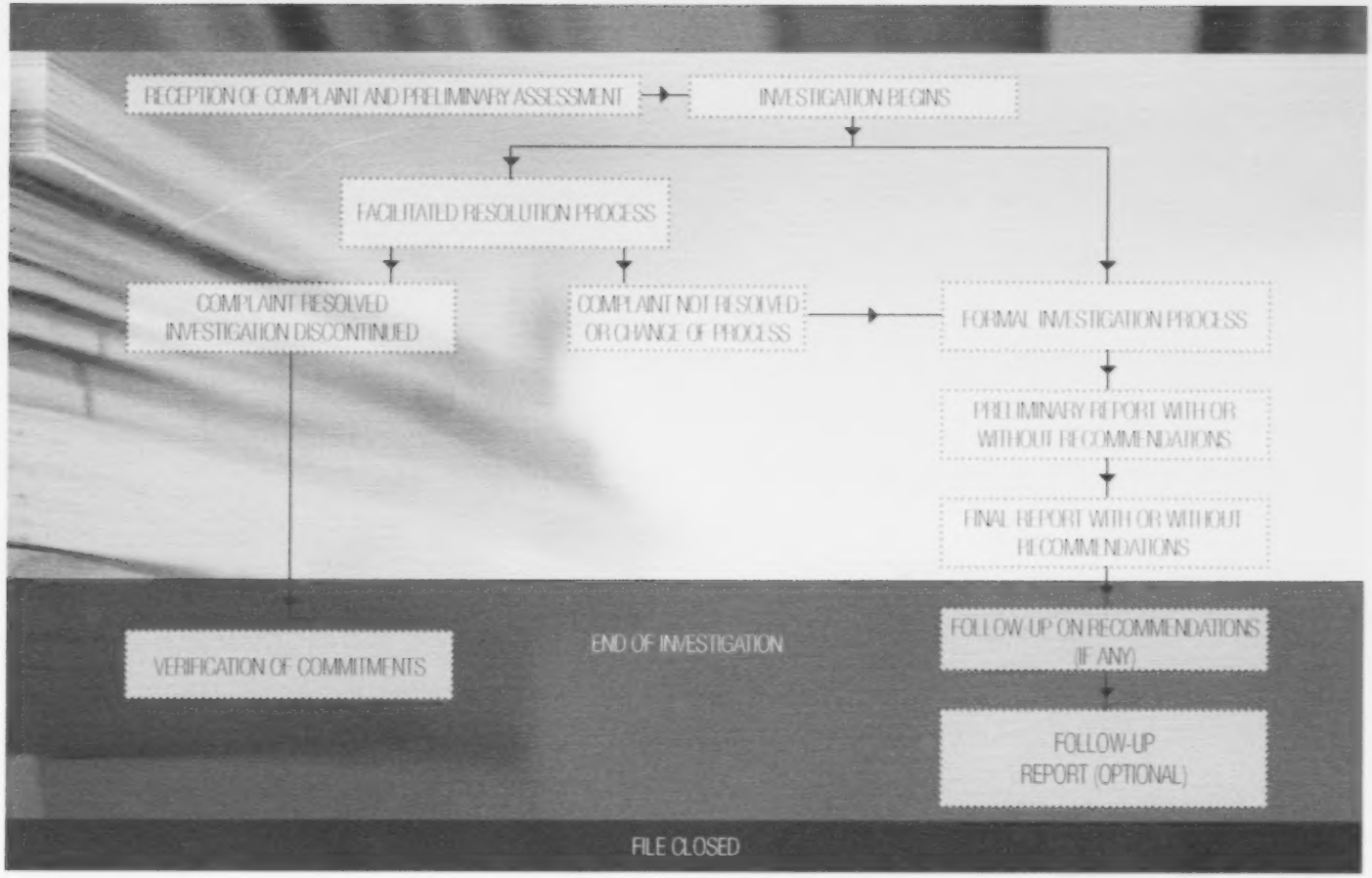
	FORMAL INVESTIGATION PROCESS	FACILITATED RESOLUTION PROCESS
LEVEL OF USE OF EACH PROCESS IN 2012–2013	Used for 33% of all complaints	Used for 67% of all complaints
RECEPTION OF COMPLAINT AND TRANSFER TO ANALYST	3 working days	3 working days
INITIAL COMMUNICATION WITH COMPLAINANT	2 working days	2 working days
INITIAL COMMUNICATION WITH FEDERAL INSTITUTION	15 working days	3 working days
PUBLICATION OF PRELIMINARY REPORT	130 working days	-
PUBLICATION OF FINAL REPORT OR END OF INVESTIGATION	175 working days	90 working days

NEXT STEPS

Developing new strategies and tools helps the Commissioner to meet the needs of complainants more effectively and, ultimately, serve the needs of all Canadians. The Commissioner will continue to evaluate these tools in order to ensure their effectiveness and efficiency.

FIGURE 1

COMPLAINT RESOLUTION PROCESSES



6.3 Promoting linguistic duality through regional offices

ISSUE

Regional office staff are the Commissioner's eyes, ears and voice outside of Ottawa. Working with federal offices and official language communities across the country, the Commissioner's regional staff promote respect for the *Official Languages Act* and for Canadian linguistic duality. The more Canadians perceive linguistic duality as a fundamental value, the more official language communities will develop and thrive.

COMMISSIONER'S ACTIONS

To promote linguistic duality more effectively throughout Canada, the Commissioner has been refocusing the efforts of his regional offices over the past few years. This exercise will better align the regional offices' actions with the Commissioner's strategic priorities. It will also establish a better balance between the Commissioner's initiatives for federal institutions, for official language minority and majority communities, while respecting the unique context of each region.

The Commissioner allocated more resources to his regional offices in order to proactively intervene with federal institutions in these regions, to continue actively working with official language communities and to more effectively promote linguistic duality as a Canadian value to majority linguistic communities.

ASSESSMENT OF THE CURRENT SITUATION

The Commissioner's efforts to enhance the promotional role of his regional offices are producing significant results.

The Vancouver Olympic and Paralympic Winter Games were held in 2010, but the Commissioner's regional office in Vancouver began ongoing and regular interventions in 2002 with the Vancouver Organizing Committee for the 2010 Olympic and Paralympic Winter Games. Throughout preparations for the Games, regional office staff provided advice on official languages issues such as bilingual signage and the presence of English and French during the Olympic Torch Relay. The regional office also facilitated dialogue between the Organizing Committee, British Columbia's French-speaking community and umbrella organizations representing official language communities at the provincial and national levels.

In February 2010, the Languages Commissioner of Nunavut, Alexina Kublu, invited the Commissioner to the Nunavut Language Summit in Iqaluit. The Summit sought to present the main issues related to the implementation of Nunavut's *Official Languages Act* and the *Inuit Language Protection Act*.

The regional office in Edmonton provided strategic advice and coordinated the logistics for the Commissioner's participation in the Summit. The Commissioner talked with participants about how official languages are promoted elsewhere in Canada. He explained the concept of substantive equality, which requires that "official language groups be treated differently, if necessary—according to their particular circumstances and needs—in order to obtain equivalent treatment."[3]

3. Commissioner of Official Languages, *Notes for an address at the Iqaluit Language Summit*, Iqaluit, February 9, 2010. Online version (www.officiallanguages.gc.ca/html/speech_discours_09022010_e.php) consulted on March 31, 2013.

The Commissioner also pointed out that the quality of cooperation between the Nunavut government, the Inuit majority and Nunavut's French-speaking community could serve as a model for the rest of Canada.

In September 2012, the University of Calgary invited the Commissioner to attend its Multidisciplinary Approaches in Language Policy and Planning Conference. On the same trip, the Commissioner met with Naheed Nenshi, Mayor of Calgary, and the editorial committee of the *Calgary Herald*. These meetings, which were coordinated by the regional office in Edmonton, allowed him to share his insights on the importance of linguistic duality for Canadians in all provinces. They also gave him an opportunity to explain the situation of Quebec's English-speaking communities. These types of visits and meetings are essential because they help leaders in Western Canada gain a better understanding of official languages issues.

In November 2012, representatives of the Commissioner's Manitoba and Saskatchewan regional office met with the Chief Executive Officer, members of the official languages committee and other employees of the Canadian Museum for Human Rights in Winnipeg. They gave a presentation on the Museum's language obligations and answered many questions on how to develop an official languages policy.

The collaborative work between the Commissioner's headquarters in Ottawa, his regional office in Ontario and the Office of the French Language Services Commissioner of Ontario led to the signing of a Memorandum of Understanding in November 2012. This agreement enables both commissioners to "share information about investigations that fall under both jurisdictions and to work together on promotional initiatives and studies on how their respective governments are meeting their language obligations."[4]

In 2013, the Commissioner's regional office in Quebec launched two youth projects. It produced a promotional video on linguistic duality based on the Commissioner's interview on a bilingual radio show called the Anglais-French Show, during his visit to LaurenHill Academy, a high school in Saint-Laurent. The Quebec office also ensured that the Commissioner and his office enjoyed a significant social media presence during the Sherbrooke 2013 Canada Games. The Games were promoted as the place where Canada's two official languages and cultures come together.

Collaborative efforts between the Commissioner's regional office in New Brunswick and the Office of the Commissioner of Official Languages for New Brunswick led to the signing of a Memorandum of Understanding in March 2013. This agreement enables both offices "to expand their cooperation in order to optimize their support to the citizens, official language communities and organizations that they serve. In particular, the agreement [allows] both offices to carry out joint studies and promotional activities."[5]

4. Office of the Commissioner of Official Languages, *Commissioners Fraser and Boileau join forces to better protect Canadians' language rights*, News Release, Toronto, November 26, 2012. On-line version (www.officiallanguages.gc.ca/html/release_communique_26112012_e.php) accessed March 31, 2013.

5. Office of the Commissioner of Official Languages, *Graham Fraser and Michel Carrier mark the 20th anniversary of the recognition of the principle of equality of both official language communities in the* Canadian Charter of Rights and Freedoms, News Release, Fredericton, March 6, 2013. On-line version (www.officiallanguages.gc.ca/html/release_communique_06032013_e.php) accessed March 31, 2013.

As demonstrated in these actions and interventions, the Commissioner and his regional offices work to promote linguistic duality throughout Canada, with a focus on new audiences, including new media, young Canadians, post-secondary institutions, provincial and municipal representatives, and private businesses.

NEXT STEPS

The Commissioner will continue to promote linguistic duality by optimizing the role and activities of his regional offices.

50TH ANNIVERSARY OF THE B AND B COMMISSION

In 2013, the Commissioner signed an agreement with the University of Ottawa's Official Languages and Bilingualism Institute and its Centre for Continuing Education. The objective of this agreement was to organize a series of events to commemorate the 50th anniversary of the Royal Commission on Bilingualism and Biculturalism, otherwise known as the B and B Commission.

In February, the Commissioner delivered the inaugural lecture at the University of Ottawa, presenting the history and heritage of the B and B Commission. University partners in various cities across Canada then took over and gave each of the events a unique perspective specific to their region. The events in Toronto, Winnipeg and Moncton explored the history and legacy of the B and B Commission. The Montréal event presented various perspectives on bilingualism.

In March 2013, a symposium on the legal influence of the B and B Commission was held during the National Metropolis Conference in Ottawa.

The following month, the Commissioner travelled to Québec City to give a speech on the B and B Commission at the 81st Congrès de l'Association francophone pour le savoir.

In June 2013, the series of events ended at the University of Ottawa with a final lecture whose participants included the first Commissioner of Official Languages, Keith Spicer, and former Governor General of Canada the Right Honourable Michaëlle Jean.

Commissioner's activities: 2006–2013 6.4

To defend the language rights of Canadians, promote linguistic duality or communicate the results of his work, the Commissioner appears before Parliament, intervenes in the media, takes part in legal cases and engages in a dialogue with members of the public and employees of the public service during private meetings and public events. The following tables show the breadth and scope of the Commissioner's activities between 2006 and 2013.

TABLE 1
APPEARANCES BEFORE PARLIAMENT

COMMITTEE	NUMBER OF APPEARANCES
House of Commons	**26**
Standing Committee on Official Languages	21
Standing Committee on Canadian Heritage	1
Standing Committee on Justice and Human Rights	2
Standing Committee on the Status of Women	1
Standing Committee on Access to Information, Privacy and Ethics	1
Senate	**14**
Standing Committee on Official Languages	11
Standing Committee on Legal and Constitutional Affairs	2
Committee of the Whole	1
TOTAL	40

TABLE 2
MEDIA INTERVIEWS

FISCAL YEAR	NUMBER OF INTERVIEWS
2006–2007	146
2007–2008	139
2008–2009	90
2009–2010	90
2010–2011	61
2011–2012	50
2012–2013	75
TOTAL	651

TABLE 3
INTERVENTIONS IN PRINT MEDIA

PLACE OF PUBLICATION	NAME OF PUBLICATION (NUMBER OF OPINION LETTERS)	NAME OF PUBLICATION (NUMBER OF EDITORIAL MEETINGS)
Yukon	-	Aurore boréale (1)
British Columbia	The Vancouver Sun (1)	The Vancouver Sun (1)
Alberta	Calgary Herald (1) Edmonton Journal (1) Edmonton Sun (1)	Calgary Herald (1)
Saskatchewan	Leader-Post (1)	The StarPhoenix (1)
Manitoba	Winnipeg Free Press (1)	Winnipeg Free Press (1)
Ontario	Ottawa Citizen (9) National Post (5) The Globe and Mail (3) The Windsor Star (2) LeDroit (1) L'Express (1) Toronto Star (1)	Maclean's (1) The Globe and Mail (1) Toronto Star (1)
Quebec	Le Devoir (3) The Gazette (2) La Presse (2) Chevery News (1) Le Quotidien (1) Policy Options (1)	La Presse (1) La Tribune (1) Le Devoir (1) The Gazette (1) The Record (1)
New Brunswick	Acadie Nouvelle (1)	-
Nova Scotia	-	The Chronicle Herald (1)
TOTAL	39	14

TABLE 4
SPEECHES* BY YEAR

FISCAL YEAR	NUMBER OF SPEECHES
2006–2007	34
2007–2008	74
2008–2009	43
2009–2010	62
2010–2011	53
2011–2012	48
2012–2013	47
TOTAL	361

* From 2006 to 2013, the Commissioner spoke to approximately 40,000 individuals during his speeches.

TABLE 5
SPEECHES* BY AUDIENCE TYPE

AUDIENCE	NUMBER OF SPEECHES
Federal employees	88
General public (festivities, service clubs, etc.)	58
Students, parents and elementary or high school staff	32
Official language minority community leaders	53
Universities and the research community	67
Language industry professionals	5
Legal professionals	12
Other	46
TOTAL	361

* From 2006 to 2013, the Commissioner spoke to approximately 40,000 individuals during his speeches.

TABLE 6
LEGAL REMEDIES

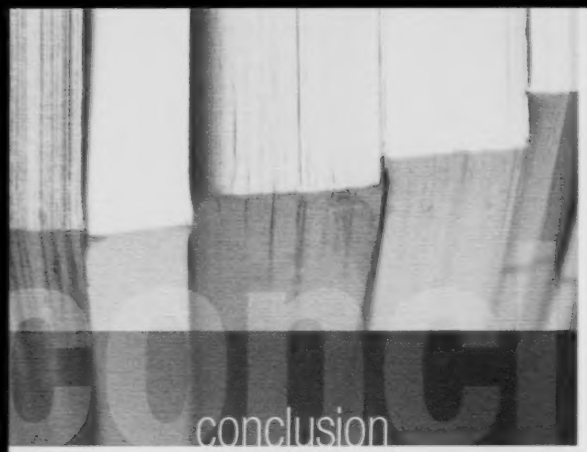
FISCAL YEAR	NUMBER OF REMEDIES
2006–2007	1
2007–2008	1
2008–2009	4
2009–2010	2
2010–2011	1
2011–2012	1
2012–2013	4
TOTAL	14

TABLE 7
ANNUAL REPORT RECOMMENDATIONS* – STATUS OF IMPLEMENTATION

STATUS OF IMPLEMENTATION	NUMBER OF RECOMMENDATIONS
Recommendation implemented	8
Recommendation partially implemented	10
Recommendation not implemented	11
Recommendation to be implemented over the long term	7
No response to date from the government	0
Implementation status has yet to be confirmed†	11
TOTAL	47

* Recommendations of the Commissioner of Official Languages published in his annual reports to Parliament.

† Recommendations too recent for immediate follow-up. Recommendations are usually followed up within two years after the Commissioner's annual report has been tabled.



Conclusion

Since 1969, when the *Official Languages Act* was passed, linguistic duality has become increasingly important to Canadians. This report shows, however, that over the past seven years, the federal government and its institutions have not been making nearly enough effort to support it.

Today, as was the case seven years ago when the Commissioner was first appointed, too many federal institutions are still struggling to serve the Canadian public routinely in both official languages.

Many have still not developed the reflex of using greetings such as "Hello! Bonjour!" to indicate that service is available in both official languages and that everyone is free to use English or French when dealing with federal institutions that have language obligations. It is essential for all institutions—especially those that top the "most complaints" list year after year—to understand that, in person, on the telephone and over the Internet, the active offer and service in both official languages are not optional. They are two key dimensions of quality service.

Some institutions are still acting as though they have nothing to do with their third party service providers' compliance with the Act. Ultimately, however, institutions are solely responsible for ensuring that the language rights of the public and of official language communities are fully respected, and they must act accordingly when adopting new ways of providing services.

Regardless of whether they serve the public directly or through a third party, federal institutions need to show stronger leadership to ensure that all members of the public have access to service of equal quality in both official languages. It is also important for Parliament to act promptly when legislation, or a lack thereof, proves to be an obstacle to progress. In the short term, the Canadian government needs to give greater priority to Bill C-17, which seeks to fill the legislative gap relating to the language obligations of Air Canada's third-party contractors, including Jazz. With regard to Bill S-211, which seeks to modernize Part IV of the Act (communications with and services to the public) and integrate the concept of federal institutions' having to provide services of equal quality in English and French, the approach proposed by the Bill should be supported by Parliament.

This report shows that a plateau has also been reached when it comes to language of work. For example, many federal employees from official language communities are still unhappy with the status of their language in the workplace. Many French-speaking federal employees are still not in a position where they can freely choose to write documents in French, and regional personnel seem to have more difficulty getting access to language training. To make matters worse, the increasing number of major changes that the public service is going through could jeopardize some of the progress made in recent decades in terms of language-of-work purposes.

To reach their full potential, both creatively and productively, federal employees in regions designated as bilingual for language of work need to be able to work in an environment that values English and French. Only by creating this kind of environment can the federal public service reflect Canada's linguistic duality. By allowing members of official language communities to develop professionally in their own language, the public service can help to strengthen these communities. It is time for federal institutions' senior executives and managers at all levels to lead by example and use their behaviour, decisions and actions to send a clear message: whether verbally or in writing, both English and French have an equal place in the workplace in regions designated as bilingual for language-of-work purposes.

Over the past seven years, support for official language communities has also had some setbacks. For example, the federal government and its institutions have made significant budget cuts and changes to policies and programs without always considering the impact on official language communities. And too many federal institutions are still hesitating or even refusing to take positive measures to strengthen these communities.

In the current climate of budget restraint and cutbacks, it is certainly positive news for official language communities that the government has developed a new five-year plan for official languages called *Roadmap for Canada's Official Languages 2013-2018: Education, Immigration, Communities*. However, certain elements of this new plan are perplexing. For example, the 2013–2018 Roadmap reduces funding for minority language education and second language learning. It has no funding for Canadian Heritage and the Treasury Board of Canada Secretariat to coordinate official languages throughout the public service. An immigrant language training program was added, but it is an existing program that has merely been moved, not created, and does not target official

language communities or the learning of both official languages. Very few funds are allocated specifically to research and the collection of reliable data in support of policy development and decision making in the area of official languages. Little effort was made to guarantee funding for research and language statistics on an ongoing basis, in particular within Statistics Canada. Such funding is crucial, however, in order to obtain a picture of the linguistic trends in the country and to better understand Canada's English- and French-speaking communities.

These examples suggest that the Government of Canada has not been particularly receptive to the recommendations made by the Commissioner before parliamentary committees and in his 2011–2012 annual report. Although the Commissioner has not received an official response from the government, the content of the 2013–2018 Roadmap seems to indicate that his recommendations have been rejected.

Still, the 2013–2018 Roadmap does have the potential to contribute much to the vitality of official language communities and to the promotion of Canada's linguistic duality. Whether this potential can be realized will be seen in the coming year, as the roadmap's initiatives begin to be implemented. The government will also likely use the next few months to clarify the direction it plans to take in terms of official languages. Specifically, the government will have to explain how it intends to ensure that official languages are effectively coordinated within the federal government and how key institutions like Canadian Heritage and the Treasury Board of Canada Secretariat will be involved.

Many Canadians still do not feel as if they live in a country where linguistic duality is an important value, any more than they did seven years ago. There are a number of reasons for this. For example, even though the Vancouver 2010 Olympic and Paralympic Winter Games were an overall success, both athletically and linguistically, the significant shortcomings in terms of French content in the cultural component of the opening ceremony of the Olympic Games left a bitter taste for many Canadians. The appointment of a unilingual Auditor General also caused some serious reactions across the country. And because the federal government has not made it a priority to create a true official-language-learning continuum, many young Canadians are less bilingual than they could have been or would have liked to have been.

Between now and 2017, when we celebrate the 150th anniversary of Confederation, Canada will have many remarkable occasions to celebrate linguistic duality, and we must make every effort to take full advantage of these occasions. For example, it is essential to ensure the equality of both official languages in 2015 at the Pan American and Parapan American Games, which will be held in Toronto, Ontario, and at the Canada Games, which will be held in Prince George, British Columbia. The Canadian government and its federal institutions must not limit themselves to promoting linguistic duality only at major events like these. Every decision they make, from the simplest to the most complex, is an opportunity for them to contribute to the advancement of English and French within both the public service and Canadian society.

However, they do not seize this opportunity nearly often enough. It seems as though the budget constraints of the past several years are sometimes used as an excuse by the federal government and its institutions for neglecting or purposefully ignoring their official languages responsibilities. Even more troubling, these budget cuts all too frequently lead to actions that, when taken individually, seem benign, but when taken together have very negative effects on linguistic duality that may be difficult or impossible to reverse.

This is not the way it has to be. The Canadian government can build some much-needed momentum by demonstrating stronger leadership and by sending its institutions a constant and consistent message that they must not put official languages on hold until their financial situation improves or until other, seemingly more important issues have been resolved. Federal institutions might then begin to see that linguistic duality is a fundamental value and that supporting it and strengthening it have a positive impact on service to the public, performance of federal employees, the vitality of official language communities, and Canada's international competitiveness.

The Royal Commission on Bilingualism and Biculturalism was created in 1963. Since then, Canadian society has changed enormously, especially with globalization and the emergence of information technology. Linguistic duality is still just as important, however, and it is still at the heart of Canada's identity.

Royal Commission co-chairs André Laurendeau and Davidson Dunton often began their Canada-wide consultations with the following two-part question: Can English-speaking and French-speaking Canadians live together, and do they want to? Even today, not everyone answers "Yes" in the same way. Some enroll their children in an immersion program or learn English or French before they travel. Others listen to music in the other official language, use their second official language to talk to a colleague, or object to a unilingual event or candidate appointed to a key post. And many accept that some Canadians live in English, some Canadians live in French, and all Canadians have the right to expect both official languages to be recognized and their language rights to be respected. Even though not everyone has the same way of showing it, most people currently support the idea that linguistic duality is one of Canada's strengths and that English- and French-speaking Canadians can live together and do want to.

As the 150th anniversary of Confederation approaches, it is time for the Canadian government and its federal institutions to lead the way and live up to Canadians' expectations so that we can celebrate linguistic duality as the fundamental value that it has undeniably become with the passage of time.

recommendations

RECOMMENDATION 1

Federal institutions need to recognize language skills in the same way as any other leadership skill and must invest in the professional development of their employees.

The Commissioner of Official Languages recommends that the deputy heads of federal institutions establish a directive on language training within their institution by October 31, 2014, if they have not already done so.

The Commissioner of Official Languages recommends that the President of the Treasury Board verify that federal institutions have established a directive on language training, and that he report back to Parliament during the fiscal year 2014–2015.

RECOMMENDATION 2

The funding allocated to the horizontal coordination role played by the Treasury Board of Canada Secretariat and Canadian Heritage no longer appears on the list of investments in the Roadmap for Canada's Official Languages 2013-2018: Education, Immigration, Communities. *Official languages programs all rely on an administrative infrastructure that facilitates the implementation of proposed initiatives and encourages rigorous accountability.*

The Commissioner of Official Languages recommends that, as part of their respective responsibilities, the Minister of Canadian Heritage and Official Languages and the President of the Treasury Board:

- develop a new horizontal management and accountability framework for the *Roadmap for Canada's Official Languages 2013-2018: Education, Immigration, Communities* by October 31, 2014,
- ensure rigorous accountability and coordination of the 2013-2018 Roadmap, and
- continue to have an open dialogue with groups targeted by the investments in the 2013–2018 Roadmap and inform Canadians of the results.

RECOMMENDATION 3

The Strategic Plan to Foster Immigration to Francophone Minority Communities *expired at the end of March 2013.*

The Commissioner of Official Languages recommends that, by October 31, 2014, the Minister of Citizenship and Immigration, in cooperation with official language minority communities, provinces, territories and federal institutions, implement a follow-up initiative to the *Strategic Plan to Foster Immigration to Francophone Minority Communities*, and specify the roles and responsibilities of the various partners, ways of achieving the planned results, and the evaluation and data collection mechanisms.

RECOMMENDATION 4

Data from the 2011 Census revealed a troubling decline in bilingualism outside of Quebec.

The Commissioner of Official Languages recommends that, by October 31, 2014, the Minister of Canadian Heritage and Official Languages establish clear objectives to raise the level of bilingualism among Canadians and reverse the decline in bilingualism among Anglophones by 2017.

RECOMMENDATION 5

The Commissioner of Official Languages of Canada, the French Language Services Commissioner of Ontario and the Commissioner of Official Languages for New Brunswick joined forces to conduct a study on the bilingual capacity of the superior court judiciary and recommend solutions to encourage Canadians to exercise their right to justice in the official language of their choice. Implementing these solutions depends on a collaborative approach between Canada's Minister of Justice and his provincial and territorial counterparts, as well as the superior court chief justices.

The Commissioner of Official Languages recommends that, by September 1, 2014, the Minister of Justice and Attorney General of Canada implement a collaborative approach with his provincial and territorial counterparts to ensure that the bilingual capacity of Canada's superior court judiciary is consistent and appropriate at all times.

RECOMMENDATION 6

Under the Official Languages Act, *the Treasury Board of Canada Secretariat is required to report on federal institutions' compliance with Parts IV, V and VI of the Act, while Canadian Heritage coordinates and reports on the implementation of Part VII. Since 2012–2013, Canadian Heritage and the Treasury Board of Canada Secretariat have jointly sent a questionnaire to federal institutions to assess their performance with respect to Parts IV, V, VI and VII of the Act. This questionnaire is used to prepare the official languages annual reports of the President of the Treasury Board and the Minister of Canadian Heritage and Official Languages.*

The Commissioner of Official Languages recommends that, starting in 2013–2014, the President of the Treasury Board and the Minister of Canadian Heritage and Official Languages add questions to their assessments in order to determine the impact of budget cuts as a result of the 2011 Deficit Reduction Action Plan. These questions should reveal:

- the changes to resources and governance structures of federal institutions' official languages programs, at both the regional and national level; and
- the impact of budget cuts on federal institutions' ability to fulfill their official languages obligations under each part of the *Official Languages Act*.